

The views expressed in this paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency.

**SENIOR SERVICE  
COLLEGE  
FELLOWSHIP  
PROJECT**

**RE-AWAKENING A SLEEPING GIANT**

**BY**

**LIEUTENANT COLONEL JOHN T. WASHINGTON**  
United States Army

**DISTRIBUTION STATEMENT A:**  
Approved for Public Release.  
Distribution is Unlimited.

**USAWC CLASS OF 2001**

**U.S. ARMY WAR COLLEGE, CARLISLE BARRACKS, PA 17013-5050**



**20010822 071**

# **ARMY SENIOR SERVICE COLLEGE FELLOWSHIP PROGRAM**

FLETCHER SCHOOL OF LAW AND DIPLOMACY at TUFTS UNIVERSITY

US ARMY WAR COLLEGE

**SRP:** Homeland Security (Leadership and Management)

**“Re-AWAKENING A SLEEPING GIANT”**

By **LTC JOHN T. WASHINGTON** / CLASS OF 2001

COURSE SSCFP01

UNIVERSITY FACULTY SUPERVISOR:

DOCTOR RICHARD SHULTZ

USAWC FACULTY MENTOR:

COLONEL PETER D. MENK

## **ABSTRACT**

**AUTHOR:** LTC John Washington

**TITLE:** Homeland Security Leadership and Management:

*"Reawakening A Sleeping Giant"*

**FORMAT:** Sponsoring Institution Written Research Product

Fletcher School of Law and Diplomacy, Tufts University

**DATE:** 30 March 2001      **PAGES:** 33 (actual research pages) / 56 (entire package)

**CLASSIFICATION:** Unclassified

### **DESCRIPTION:**

**Focus:** This paper will concentrate on the unanswered question of federal leadership and/or management of the potentially vast federal assets which could possibly be required during periods that seemingly appear to be local in scope. Then they quickly build exhausting state and local resources and capabilities. These incidents continue to grow in increasing complex crisis management. Until eventually, it maybe recognized that they maybe unknowingly defending the sovereign soil of the United States of America. Do we need a federal management requiring a new Presidential Cabinet Secretary, another federal agency, a DOD "War Fighting" military Commander-in-Chief (CINC), or simply a new CZAR? In addition, if so, why?

**Purpose:** The paper is not to answer the question, only to readdress the already open issue. In doing so I will attempt to provide the uniform and non-uniform leadership of our nation, who will inevitably be required to answer that question with some historical and factual "food for thought". The design of this paper and purpose is simply to provide information that should lead the reader to believe that we already have such in place.

**Discussion:** It is my personal belief that our founding fathers, with reservations, laid a foundation for which to address this concern. This country should only have to strengthen or exercise a few extensions that may not have been used in a long time. In other words we have a system, with appropriate checks and balance, already established that are responsible for leadership, management, and guidance. It will take some additional work to tie some of the offices together. Moreover, if you accept that, than I will propose we get started immediately!

---

**HOMELAND Defense/Security:**  
***"Reawakening the Sleeping Giant"***

**I. Introduction**

- A. Short story/description of a crisis. Then state the question in the title.
- B. Definition and information
  - 1. Terrorism & Counter-terrorism
    - a. Define
    - b. Lead Agency
    - c. Current plans or actions
    - d. Financial requirements / congressional funding authorizations and level.
  - 2. Crisis/Consequence Management
    - a. Define
    - b. Lead Agency
    - c. Current plans or actions
    - d. Financial requirements / congressional funding authorizations and level.
  - 3. National Emergency or Disaster
    - a. Define
    - b. Lead Agency
    - c. Current plans or actions
    - d. Financial requirements / congressional funding authorizations and level.
  - 4. Other programs under the same umbrella:
    - 1. Weapons of Mass Destruction (WMD)
    - 2. National Missile Defense
    - 3. Information Systems Security

**II. Historical Perspectives & Differences**

- A. In the above listed programs
- B. Programs and information
  - 1. Terrorism & Counter-terrorism
    - a. Lead Agency
    - b. Current plans, rules and participation
  - 2. Crisis/Consequence Management
    - a. Lead Agency
    - b. Current plans, rules and participation
  - 3. National Emergency or Disaster
    - a. Lead Agency
    - c. Current plans, rules and participation
  - 4. Other programs under the same umbrella:
    - a. Weapons of Mass Destruction (WMD)
    - b. National Missile Defense
    - c. Information Systems Security

**III. The Threat**

- A. History of Homeland Defense issue and current status of Homeland Security
  - 1. Creation and necessity
  - 2. Original Purpose
  - 3. Use and purpose today
- B. Warfare
  - 1. US Military Readiness: which does not refer to any of the above.
  - 2. The commingling of law enforcement and military forces.

**IV. Readiness & Preparedness**



- A. Federal
  - 1. FEMA
  - 2. DOJ
  - 3. DOD
- C. Local
  - 1. State
    - a. Emergency Management
    - b. Military
    - c. Law Enforcement
  - 2. County (?)
  - 3. Municipal (?)

#### V. More History, Doctrine, Law & Debate

- A. Who's in charge?
  - 1. DoD.
  - 2. FEMA
  - 3. FBI
- B. US Military
  - 1. Civil Military missioning (policing v. war-fighting)
  - 2. Martial Law
  - 3. Impact on War-fight Mission Readiness
- C. Leadership
  - 1. Normal military commands & controls chain and systems
  - 2. CINC, a War-fighting commander.
  - 3. Who's in charge?
    - a. Civil authorities under the governor's office.
    - b. The military under Presidential authorized martial law.
    - c. Civil-military support
  - 4. At the beginning, during, and end of an incident

#### VI. Recommendations

- A. Formal (i.e. existing and makes sense)
- B. My two cents (i.e. improvements or changes)

#### VII. Conclusion

a. Summery: It is my personal belief that our founding fathers, with reservations, laid a foundation for which to address this concern. Law and history should provide the details of the state's role through out an incident. It is already seen that through out the history of the United States we have experienced numerous emergencies and handled each of them within existing leadership and structure. We need only rebuild those weakened chains. It is not my position that our military would ever pose a threat to its nation. That is our military of the past and the now. No one can say that will be the case in the long-term future. Let's not set a president or "...temp fate..."

1. The paper should leave the reader thinking about leadership under before after, and most importantly during a national incident, which takes place on our home soil unanswered. What I hope to inspire is the thought process that drives the reader to contemplate what he/she believes to be a position on the aforementioned subject matter.

2. In this thought process history tells us that our founding fathers had reservations of a full fighting force with authority of those for whom they are sworn to answer to. Is that still a concern to day? Is the military the right choice of leadership? If the military, than who within the military (AC, RC, uniform, non-uniform, or even look at the creation of a new position, i.e. a CZAR)? Did not our founding fathers answer this question within the establishment of the National Guard? Regardless of whom, are they ready? How long will it take to get them ready? Moreover, can this country afford to upset the delicate balance of power within our boarders?

b. Closing Remarks: The US Constitution established a very intricate system of checks and balance. The governors are in charge with all the assets of his state and those of the collective efforts of supporting states. Nothing forbids the President from assisting and when called upon he should. What we should be doing is fixing what is broke and creating any additional assets, that maybe required assisting them in those responsibilities. If that is restructuring, re-missioning, or retraining our military than we have to pay for that too. With all those who are

currently available and certainly will be required for these purposes we need to simply connect the dots as we paint that the support for any effort. Regardless if we realign those forces, offices, departments, secretariats, etc. under the President, a Governor, a Military Leader, or a Civilian appointed by the appropriate authority it seems simple to me. Just like the military can re-align its forces amongst its CINCs than maybe we need to train or re-legislate the applicable agencies to be able to answer accordingly when it is called for. Who is in charge should not be the question, but what does he/she have what maybe needed to accomplish this task? Do we have it? In addition, how we will get it for him/her? Whether one believes in history, religion, horoscopes, or any other methodology of forecasting man's destiny, this country can ill-afford to continue to wait.

#### IX. Appendixes

- A. Extract from the DOD Emergencies Handbook.
- B. Other Federal Participants
- C. 12 Emergency Support Functions (ESF)
- D. Mr. Ikle's 'Legal Authority for a Leading DOD Role'
- E. Threat Assessments
- F. BAH's "HLS Campaign Response to the Road Map for National Security: Imperative for Change"
- G. Other recommendation on RC Use in HLS
  - 1. LTC Spiese, US Marine Corps, a 1999 resident US Army War College Research Paper
  - 2. LTC Aylward, US Army, a 1999 National War College Research Paper

#### X. Documentation

- A. Disclaimer & References
- B. PAO Clearance Request
- C. Abstract

## Introduction

I would first ask your indulgence in going back to January 2001. Its New Year, America is recovering from the socials and fears created by individuals attempting to predict the future and warn the world of the incoming millenium. During the evening news broadcast we hear that various live stocks are now being reported getting seriously sick. This time instead of it taking place in Europe it is being found throughout the central US with heavier concentrations through out the Dakotas. The cause, extent and reason are still under investigation.

Later, we hear on the news that several forest fires have broken out throughout different parts of the woodlands on the USA's western states. Hundreds of families have to be displaced and wildlife remains seriously threatened. Fire departments, the National Park Service, and the National Guard are sending additional help with hopes of regaining control of this (seemingly) natural disaster. As we watch with concern we remain thankful that, it is not our community. All the attention on Florida's election process causes story on the continuing unexplained mass deaths of farm animals and wildlife in the Dakotas to remain almost unnoticed.

It is now Dr. King's Birthday, a federal holiday! Before we could quench the fires on the West Coast, the news informs us that people in Chicago are coming down with what appears to be an incurable virus having flue like symptoms. While people in Arkansas have discovered that fish are unexpectantly, dying and their waterways are in question of potentially contaminating local drinking water supply systems. As a precaution, the people of Little Rock, AR are told not to drink the water. As time passes, the local drinking water supply companies' stocks are quickly being depleted. Several private sector and government scientist are trying to determine what is wrong, as well as suggest what can be done to rectify the situation. The Governors of the states of Arkansas, Tennessee, Texas and Illinois are calling for federal intervention and assistance.

Time continues to pass and all of America is elated that the president-elect has been finally being determined. It is the day for the inauguration of the next President of the United States of America. All state and local government involved agencies have been briefed and are (to the best of our knowledge) prepared. During the presidential inauguration speeches, a reported strange or weird looking cloud passed over the entire area. Shortly there after

people appear to be begin coughing uncontrollably. Yet, in an almost stately or regal like fashion the ceremony went off without an incident until another low flying mass of gas is seen as the motorcade passes through the downtown area. This time it is was much lower and less dense. It pasted near the motorcade itself, but just minutes afterwards several of the onlookers, protestors, local community, and participating law enforcement officers/agents started coughing uncontrollably and had to be rushed to local hospitals. The news reported that local medical facilities quickly became overwhelmed. As these mass casualties were being cared for, the attending doctors, nurses, ambulance drivers, and hospital staff were being found to have developed similar conditions. Many outside civilian and military medical personnel were brought in to assist in what is now being referred to as an epidemic of undetermined origin. The city of D.C. appeared almost crippled with its law enforcement, fire & rescue, and medical personnel depleted. The National Guard was placed on alert and the surrounding governmental agencies provided additional support. However, due to the rumors, mass hysteria, and individual caution the available support was very limited. There was no additional or specific information gathered on the strange cloud sightings or possible causes for such an incident.

Moreover, just when we thought we had enough bad news, another shark eating frenzy emerges. A large explosive device was detonated at the Superbowl in Baltimore, MD. Several thousand people have been seriously injured or found dead. The world news community is now starting to report several similar incidents in other countries. The USA and the world are beginning to ask themselves what and where will it happen next. The American public is crying out for answers and protection from its federal government. The meeting of all the Governors of the United States is call and the President is asked to attend. The US Congress calls for special session. The Vice President of the United States, accompanied by members of the National Security Counsel, are asked to appear to answer congressional inquires regarding these once considered natural disasters and national emergencies. In the course of all the high level meetings and federal investigations, it is now clear that links are being made between incidents. Associations based on many obvious factors, the possibility of terrorist involvement, and even potential hostile nation's attacks are appearing in newspaper headlines.

It easily and quickly becomes clear that in every case above there were several local, states and even some federal agency(s) involvement. In the aftermath, two things became air apparent. The first of which were heated

discussions over who was in charge and exactly which federal agency know what, when, and ever knew exactly what to do with that information. In other words there was never an established central collection point or meeting of the heads until the public outcry for justice. Once the witch-hunt and the passing out of blame started, each spilled its guts about what each did and did not do. Nevertheless, no report seeing a connection between any or all of the above situations or circumstances. Would you have noted a collective effort of a single source actor? If you had, would your friends, family, and co-workers say that you have a sick mind? Thereby the next question would be to ask you if in fact are their criminals, terrorist individual or groups, or angered nation states possible of such conduct? Moreover if there can, are we (i.e. the USA) prepared for it/them? Everything I have researched answered my first quest with a no, because it is not only possible but more likely, than not. The most disheartening answer to all the proposed questions is in that the USA not only recognizes the potential for such, but it has known this for decades. On top of that, we have accomplished very little in preparing for a collective or concentrated response to such events. If this were strategic warfare planning this posture would surely be found totally unacceptable. So why is it or does it remain that way?

The answers by some are simple, while the needed actions long from being able to provide for the protection of this country. The initial response would be local in nature and if state or federal assistance is needed it must be requested. In other words, is there a national 911? We do have a Federal Response Plan (FRP) which provides the framework for federal consequence management and Homeland Security (HLS). The FRP assigns FEMA as lead federal agency but it does not give it command authority or the assets and resources necessary to linking such incidents together. We must understand that there are no entities that has the sole authority or complete internal capability to prepare for, monitor, investigate or resolve an incident all by itself. Our advance education community, industrial base, military and civilian leaders all agree that we this. They even to a certain degree, agree on an approached.

However, is there really a need for another federal agency just to potentially access all federal assets? Additionally with the authority to bring resources to bear during complex crisis periods that seemingly appear to exhausting state and local resources and capabilities, but remain local in scope. If so new federal leadership or management is required than what should it be called a new Presidential Cabinet Secretary, another federal agency, a "War

Fighting" military Commander-in-Chief (CINC), or simply a new CZAR? Even then how will he/she recognized that we maybe (even unknowingly) defending the sovereign soil of the United States of America. In addition, if so, why?

My findings hold that our founding fathers (with reservations) laid a foundation for which to address this concern. We only have to strengthen and/or exercise existing federal, state and local structure much like would mussel groups that we have not been forced to use in a long time. In other words we have a system, with appropriate checks and balance, already established that are responsible for leadership, management, and guidance. It will take some additional work to tie some of the pieces together. Only in extreme cases and on temporary basis will some focal point or individual be required to act as lead (and very rarely in command). And when that is called for the Constitution of the United States gave that authority to our President of the United States, THE COMMANDER-IN-CHIEF (i.e. not to be confused with a "military" CINC referred to above)! It is the leader of the Executive Branch with the provided checks and balances outlined between the Legislative and Judicial Branches of our existing government.

It is the President's greatest responsibility to provide for the protection of the US citizenship and is sovereignty both foreign and domestic. I am not suggesting or proposing that he not create or solicit whatever personnel, resource, or structure he deems necessary to accomplish that. Although I do not intend to address the issue of the existing size of US government, I do agree with several reports that the existing government is too large. Therefore, the question is not in what may be created. My position is in the question as to what needs recreation to address current national requirements and threats. The President needs to re-connect the dots on the federal response picture, establish a collective vision, and ultimately lead the country out of any confusion that should arise. My research suggests that getting started will be the biggest problem and not in answering the questions of by whom and at what level this should take place.

## Historical Perspective

Before we embark on the topic of homeland defense or its leadership, one should ask why would any one want to harm seemingly innocent people. As a soldier, I have to ask how and when did the rules of modern warfare, allowing the attack on non-military targets change? Did the leaders of the US government know about this? If not why? If so why were we not prepared. What are we doing about it now? These are only a few of my own questions. What maybe even more surprising is the answer can be short and equally interesting. Such an example of a collaborative effort by a foreign power is already a part of our history. Pear Harbor is an incident in US history that continues to stand as an ongoing example of a calamity of error and arrogance of not only the US Federal government but the citizens of the United States as well. I am not going to rewrite the sago of that tragedy of US unpreparedness.

What I have come to appreciate was the statement, made by the commanding admiral of the Japanese Fleet, at the height of their greatest victory. When the commanding Japanese Admiral found out that the US had not received their formal declaration of war, it was noted that he said something to the affect **"...all we have accomplish is awakened a sleeping giant."** Therefore, instead of a major strategic victory signifying military superiority, he understood that without that notice, the attack would be interpreted and remembered as an act of aggression or terrorism. Thereby their actions did not create the desired result for which the Japanese leadership had originally sought. Instead of setting a table for future negotiations, it rallied the American public and its massive industrial capability to a tune of national revenge. Even the US's atomic attacks on Japanese cities is indicative of the US threats of future response(s). It is in both the incident and our response that, we see the US attitude, position and HLS answers today.

During that period of history, American's enjoyed the ideology of supreme power and the arrogance that no other nation would dare attack the sovereign soil of the United States or its citizenry. Contrary to the lesson above, we have returned to another period of national arrogance. Our faith in a mighty military force and a national policy of nuclear retaliation has recreated a false sense of security that supports a feeling that they will prevent such acts by an individual or opposing nation. We did then and we were wrong. Since that incident, we have return to a state of

national complacency. Just like Pearl Harbor there exist warning signs, national reports, and a small sector of America that are shouting that such methods of warfare are not only possible, but are more likely than not. It is our overwhelming conventional military capability and our ability to exercise our threat of a nuclear response that have not only created, but additionally sustains a world environment which has come to be called Weapons of Mass Destruction (WMD). This philosophy had developed another governmental catch phrase, once called Homeland Defense (HLD), is now favorably referred to as Homeland Security (HLS). There have been many areas of this seemingly new national priority(s) identified, questioned, studied, and to some extent researched and minimal funding assistance provided.

## **DIFFERENCES**

So what are WMD and HLS? The Deputy Chief of Staff for Army Operations defines HLS as "Protecting our territory, population, and infrastructure at home by deterring, defending against, and mitigating the effects of all threats to US sovereignty; supporting civil authorities in crisis and consequence management; and helping to ensure the availability, integrity, survivability, and adequacy of critical national assets." HLS missions areas have grown beyond the original concept of defending the sovereign territory. HLS has become a collection of the following programs: National Missile Defense (NMD); Information Assurance Operations (IO); Chemical, Biological, Radiological, Nuclear, and High Explosive (NBC or CBRNE) responses; Natural Disaster; and Civil Disturbance response.

The Science Applications International Corporation (SAIC), in "HLS: 'Helping to Define the Military Roles Amid the Frenzy'", wrote that HLS could be consolidated into six military mission areas. 1) Defending the sovereign territory are considered to be drug trafficking, illegal immigration, air space violation. 2) National missile defenses consist of ballistic and cruise missile programs. 3) Information assurance operations involves hacking, denial of service, and fraud schemes of computers, communications, electronics, etc. 4) NBC or CBRNE is any chemical, biological, radiological, nuclear, and high explosives incidents – deliberate and inadvertent. 5) Natural disasters are floods, hurricanes, forest fires, earthquakes, tornadoes, blizzards, and ice storms. 6) Civil disturbances are riots, unlawful demonstrations and domestic insurgencies. Each HLS mission has numerous tasks and requirements and



those are too many to list within this short paper. HLS is also currently classified into four mission functions. I will discuss the four mission areas of deterrence, defense, crisis management, and consequence management later within this document. Sovereignty Incursion, NMD, and information assurance all have automatic and standardized responses. CBRNE, Natural Disasters and Civil Disturbance missions require a tailored response based on specific types of incidents.

WMD is characterized as simply the use of almost anything with the intent to produce massive casualties and suffering. Some in this new field of study or community of concerned leaders and professionals prefer the term Mass Casualty Producing Weapons. As you may note any of the above listed means or methodologies could be placed into this category. However, that still does not answer why would anyone still want to use such uncommon or international recognized unlawful tactics. Could WMD now be the preferred methodology of small groups or countries demonstrating that they can "...now wage war against the United States" without a large conventional force? Instead of listening to my own unsubstantiated theories, let us look at what the former Assistant Secretary of Defense, John Hamre wrote.

In "A STRATEGIC PERSPECTIVE ON U.S. HOMELAND DEFENSE: PROBLEM AND RESPONSE" Dr. Hamre reminded the attending leaders and future leaders of the US Army that this topic is not new. The defense of the US has been a concern since as far back as 1814, when the British sailed up the Potomac and burned down the Capitol. He continued with other examples from World War II. Mr. Hamre completed his opening address by saying that outside of a few instances, the US has felt secure in its homeland for at least five generations.

In Dr. Hamre's opinion, Homeland Defense has only returned as matter of concern only within the last 10 years and as a matter of importance within the last two or three years. He suggested the reason for this was because the United States is such a dominant force on the battlefield, especially conventionally, that it is unlikely that another country will chose to do what Saddam did in 1990. So it is determined that future potential opponents would choose to confront us in a nontraditional manner. He then blamed the more recent developments that have reawakened our leadership to *the emergence of asymmetric threats where very small numbers of people can now wage war against the United States.*

Dr. Hamre offered other reasons that have collectively led to the US to rethinking more creatively about the issues of homeland defense than it has at any other point over the last 150 years. The second of which was that the break up of the old Soviet Union has left a huge inventory of military (WMD) weapons, which can be easily acquired in support of effort(s) intended to negatively influence the US. Such examples of Uzbeki border guards intercepting an illicit transfer of nuclear material and the emergence of a series of transnational actors like Osama bin Laden. Transnational actors do not seem to be susceptible to the classic instruments of deterrence. To these organizations and causes are not subject to known or existing forms of warfare, thereby necessitating our rethinking of homeland defense or instrument(s) of deterrence requirement.

Dr. Hamre repeated that homeland defense or security would require the development of a "unified theory for homeland defense" and that any federal plan is undoubtedly extremely difficult. But that does not mean that we should not try to develop a "unifying paradigm" as the federal and state governments work through and think about all of these problems. Dr. Hamre closed with "...that it is just a matter of time before we have an event in this country that will be absolutely the most stressful thing to confront the country since the War of 1812." The US cannot afford not to be ready for it, because at that moment everybody in the country is going to be looking for their government to respond with competence and assurance. Either the collective governmental response will scare them or we will be able to reassure them that we will get through it. Yet, these will all depend on our some achieved level of preparedness.

### **THREAT (?)**

So are we in trouble or are our politician and military seeking new ways to spend more tax dollars? SMILE! If not, then who (potentially) or what is this threat? The US Army War College Strategic Studies Institute says 'strategic asymmetry' is as old as warfare itself. Asymmetry is the use of some sort of difference to gain advantage over an adversary. This post-cold war prediction is repeated by many groups and is seen throughout many reports. For example the National Defense Panel (NDP), a senior level congressional defense assessment group, said that our future enemies may find new ways to attack US interest, forces, and citizens. They (terrorist and hostile nations)

look for ways to match their strengths against our weaknesses. The term asymmetric warfare did not appear in Washington D.C. until the 1997 Quadrennial Defense Review (QDR) report and subsequently the National Military Strategy that was published in that same year. Its next public appearances came in 1999 US Commission on National Security / 21st Century and 1999 Joint Strategy Review. DoD's original working definition of asymmetric warfare stated that "adversaries are likely to attempt to circumvent or undermine US strengths while exploiting its weaknesses, using methods that differ from the usual mode of US operations. Later the Joint Staff redefined asymmetric warfare as "unanticipated or non-traditional approaches to circumvent or undermine an adversary's strengths while exploiting his vulnerabilities through unexpected technologies or innovative means."

Threats according to the US Army's Strategic Environment for HLS are both natural and man-made. They are capable of causing mass casualties and major damage to US infrastructure. They disrupt the planning, operations and represent significant challenge by overwhelming a government's resources, ability/capabilities, and authority. As a new method of waging war, SSI says that asymmetry is acting, organizing, and thinking differently than ones opponents in order to maximize your advantages, exploit your enemies weaknesses, attain the initiative, or gain greater freedom of action. In other words if you can not stand toe to toe with your opponent, than attack his unsuspecting and unprotected sections, part and/or weak spots. As it cries or attempts to cover the infected area, one should quickly hit him even harder with what ever you can get. Most of us can remember this tactic from grade school. Even then and anywhere in the world such tactics were dirty fighting. Surely, in our civilized and modern world of today, no one is resorting to such childish conduct.

The Central Intelligence Agency (CIA) Director, George J. Tenet, In the CIA's Tenet on Worldwide Threat 2001 Report dated 7 Feb 2001, said that "The most serious and immediate threat facing U.S. national security is from the Middle Eastern terrorist network." He added that "The threat from terrorism is real, it is immediate, and it is evolving." In his testimony before the U.S. Senate Select Committee on Intelligence, Mr. Tenet said: "State-sponsored terrorism appears to have declined over the past five years, but transnational groups -- with decentralized leadership that makes them harder to identify and disrupt -- are emerging."

"Navy Vice Adm. Thomas Wilson, the director of the Defense Intelligence Agency, also provided testimony to the Senate Select Committee on Intelligence, February 7th. In his written statement to the committee, he said the basic forces bringing stresses and disorder to the world would continue. 'No power, circumstance, or condition is likely to emerge capable of overcoming these [forces] and creating a more stable global environment,' Wilson said. 'Within this environment, the 'Big C' issues- especially counter drug, counter intelligence, counter proliferation, counter terrorism... will remain key challenges for the United States....' The transfer of information and technology increases the dangers from weapons of mass destruction. Wilson said this trend 'will increasingly accord smaller states, groups, and individuals destructive capabilities previously limited to major world powers.' Wilson analyzed the state of the world today and detailed some of the threats he sees facing the United States. Sometime during the next two years, he predicts a 'major terrorist attack against United States interests, either here or abroad, perhaps with a weapon designed to produce mass casualties.' He said this type of terrorist attack remains the most likely threat to the United States."

With the information above, we should expect that there is a threat, who the potential actors are, and agree that we need to be preparing for what maybe the inevitable. So what has been done about this? In 1997, the Nunn-Lugar-Domenici legislation in the Defense Authorization Bill, Public Law 104-201, dated September 23, 1996, provided for training of many local, state and federal emergency responders. The Federal Response Plan (for Public Law 93-288, as amended), April 1999, and Terrorism Incident Annex (Amendment 11 to FRP), also aided in their ability to respond to terrorist attacks using weapons of mass destruction. The Terrorism Incident Annex details how response to weapons of mass destruction (WMD) events will be managed. Local, state and national emergency responders have revised their response plans to account for terrorism. The US President assigned federal responsibilities in Presidential Decision Directive (PDD)-39. PDD-39 requires FEMA to ensure and assure Federal and State emergency plans are adequate for responding to terrorism incidents involving WMD.

The federal organizational structure was refined in May 22, 1998 in PDD-62, "U.S. Policy on Combating Terrorism" and PDD 63, the "U.S. Policy on Critical Infrastructure Protection." In PDD 62, the interagency National Domestic Preparedness Office (NDPO) stood up to coordinate federal efforts to help local and state governments respond to terrorist attacks. The NDPO concentrates on five areas: planning, training, exercises, equipment (including research

and development), and intelligence and information sharing. This was outlined in the January 1999, NDP Office, Draft "National Blueprint for Domestic Preparedness". In PDD 63, the interagency National Infrastructure Protection Center (NIPC) was assigned to coordinate protection for critical infrastructure including computers. In a White House Press briefing, Richard Clarke was named National Coordinator for Security, Infrastructure Protection, and Counter-Terrorism; and Jeffrey Hunker, the Director of the Critical Infrastructure Assurance Office. Each was to work out of the National Security Council. Nevertheless, the question of readiness still loomed in the air. The U.S. Government Interagency Domestic Terrorism Concept of Operations Plan, January 2001 plan, details how federal crisis and consequence management actions will be coordinated.

In agreement with most reports, before we look at recommendations for potential new leadership or new organizations we need to look at what they have to face. This exercise will require us to do an assessment of likely threat and the operational concerns resulting from that assessment. I also agree with CSIC in that any threat assessment should provide an examination of weapons proliferation; the scientific and technological factors of research and development; and the production of such weapons. This will be used to identify how the US can be threatened and ascertain appropriate recommendations or courses of action to possibly slow or stop them. We must explore the operational concerns by analyzing what has happens (i.e. the crime seen or incident investigation). Then while that is taking place, we need to ensure the continuance of our collective efforts to mitigate the incident through appropriate and affective consequence management. Please see Appendix E for Threat Assessment Report.

## **READINESS and/or PREPAREDNESS**

The Center for Strategic and International Studies (CSIS) wrote that the United States and its allies face a number of new and difficult security challenges in the coming millennium. While past threats came from other states and were primarily aimed at U.S. forces or allies overseas, new challenges --- such as the proliferation of missiles and weapons of mass destruction, terrorism, and attacks on our information infrastructure --- may well involve non-state actors and will directly affect security at home. We will have to rethink basic policies, federal and state organization for national security, and the allocation of resources to meet both old and new defense tasks.

At the federal level, responsibilities for terrorist response are divided between crisis management and consequence management. Crisis management (CM) seeks to prevent a terrorist attack. The Federal Bureau of Investigation (FBI) has responsibility for crisis management and criminal investigation of a terrorist threat involving a weapon of mass destruction. Consequence management is the emergency response after a terrorist attack. Consequence management (CoM) includes measures to protect public health and safety, restore essential government services, and provide emergency relief to governments, businesses and individuals affected by the consequences of terrorism. The laws of the US assign primary authority to the States to respond to the consequences of terrorism. The Federal Government provides assistance as required. The Federal Emergency Management Agency (FEMA) has responsibility for consequence management. In PDD 39 and 62, the federal government acknowledged that emergency response is primarily a local and state responsibility, but the federal government stands ready to help should a terrorist attack overwhelm local and state resources. It should also be said the all federal agencies which maybe used in either aforementioned category understand that "they are there to help" and not to take over or command. Please see Appendix A for the extract from the DOD Emergencies Handbook.

It does not seem to be a question that the first government representation on any CoM or CM incident are, more than likely, the local law enforcement and/or fire & rescue. We agree that they are ill equipped, trained or prepared to deal with what they might find. The next level is the county and state. They are in most respects even less equipped than the local authorities, but are better trained and empowered to expand assistance beyond territorial capabilities. Here is where the federal assets enter the situation. Who are they? We have already mentioned a few of the player's who may become involved or at minimum have been identified as having a part in HLS or WMD related activities, preparation and potential events. Research has found that there are too many to list. Just to give you an idea of the number and their complex roles, capabilities, responsibilities, etc. I would recommend the US Military's Handbook For Joint Task Force Domestic Consequence Management Operations. This manual serves as a guide for joint task force and response task force commanders, their staffs, and subordinate units who may be tasked to provide support to a lead federal agency (LFA) during consequence management operations. More importantly it outlines a more detailed description of the complicated layers of federal response that can be brought to bear in any given incident or event.

Today emergency response teams associated with combating terrorism have focused on chemical and nuclear terrorism. Because of the lack of available unclassified equipment, training and general information they simply ignored biological terrorism. Historically these civil defense teams within the local first responder community geared themselves toward an ability to respond to nuclear, chemical, and other hazardous materials, that were likely to be found in and around their own jurisdiction. Newly created local and state teams were structured on the bases of preexisting hazardous materials teams and nuclear response teams. The models originated out of the Department of Energy's Nuclear Emergency Search Teams (NEST), the US Army's Technical Escort Unit (TEU), the Environmental Protection Agency's Regional Response Teams (RRT) and Radiological Emergency Response Teams (RERT). They are also outlined in the May 1998, Department of Defense, "Response Capabilities for a Weapon of Mass Destruction." For other federal participants please see Appendix B.

Most all participants agree that almost all CM operations will be conducted in a joint and interagency environment. For example the Department of Defense may support or coordinate with many Federal, state, and local governmental departments and agencies as it conducts CM operations. Although the DoD is currently never to be the LFA (unless the President declares a state of national emergency or "marshal law") in CM operations, it is directed to be a supporting player in all FRP emergency support functions. Throughout our history, the military has provided community support at the national level and its surrounding communities. There is no reason to believe that it will not continue to provide that assistance in the future.

### **So is there a question as to "who's in charge?"**

Every state and some local jurisdictions possess emergency response plans. All state emergency response plans address threats relevant to anticipated incidents within their jurisdiction and the means used to obtain federal disaster response assistance. It is currently anticipated the initial state authorities will concern itself with treating and caring for the injured and dead; securing the incident site; containing the situation, if possible; and disseminating emergency public information. Most state and local governments use the Incident Command System structure for command and control of consequence management actions related to the incident site. Since states are sovereign, they feel that there are no command and control issues because the federal response organizations have no command

and control authority over state and local government responder. Each federal organization involved in assisting state and local governments is responsible for commanding and controlling the personnel that it has deployed to provide support. One of our earlier questions asked about a situation when local government finds itself overwhelmed. Now what? The President may opt to declare an "emergency" and direct federal assistance to be provided immediately to prevent human suffering, loss of life, or property damage. In all situations, the FRP dictates that Federal government responders (including DOD) augment and assist the state and local governments that are impacted by the incident. The FRP clearly maintains that either civilian agency (i.e. FEMA or the FBI) remain LFA if there should come a collapse in local authority. Yet, is it unreasonable to consider levels of chaos in which the unspeakable "marshal law" may have to be declared?

In domestic threat situations, we already know that the FBI has the lead. It is commonly assumed that both crisis and consequence actions will probably be worked concurrently. Only the incident site, situation and sometimes circumstances may dictate differently. It is also assumed that federal involvement in the threat situation(s) will generally start with a conference call from the FBI to those departments and agencies tasked in PDD-39.

Immediately following should be the activation of the SIOC, deployment of a Domestic Emergency Support Team, and or establishment of a Joint Operations Center (JOC). When a WMD incident occurs without warning, FEMA (after consulting with the impacted state's governor and the White House) will initiate the deployment of a federal response. It is only hoped that someday this will be an interagency response team. The response may involve the tasking of several federal agencies. This will more than likely include DOD and other federal assistance as maybe determined or specified to meet the emergency needs identified by the state (i.e. medical, environmental cleanup, detection and decontamination, mass care, search & rescue, etc.). When FEMA initiates the federal response, the FBI is notified immediately. Federal coordination, to include the exchange of liaison, is expected to take place. A FBI led JOC is established near the incident site to coordinate crisis and consequence management actions. FEMA will manage delivery of all consequence management assistance from a Disaster Field Office, also near the incident site or impacted area. Please note that in some catastrophic disaster situations it may not be known at the time the incident occurred that it was caused by a WMD—however, this would not delay response. FEMA authorities allow it to respond to the state's request for assistance based on the situation and request for assistance—without knowing the cause of the incident.



Other command and control relationships in consequence management operations can be tailored to a particular situation. At the federal level, command relationships always begin with the National Command Authority (NCA). In the introduction, the DOJ (the FBI) is the LFA for crisis management. To ensure there is one overall LFA, PDD 39, United States Policy on counter-terrorism, directs FEMA to support DOJ (as delegated to the FBI) until the Attorney General transfers LFA CM responsibility to FEMA. Once the NCA has authorized Federal support and the Department of Defense is in support of CM operations, FEMA requests emergency support through DOMS to the ATSD-CS for the appropriate action. The ATSD-CS will coordinate with the Joint Staff and supporting combatant commands to develop plans and orders. To alleviate confusion, FEMA will continue to coordinate for all military emergency support through DOMS during the CM operations. DOMS, in turn, will coordinate with ATSD-CM. The JTF-CS, or RTF, deploys as directed by the supported combatant commander and operates under the supported commander's or Commander, JTF-CS, controls until termination of CM operations. The supported unified combatant commander deploys the DCO to coordinate military support and to respond to the FCO's requests. The supported combatant command approves requests for resources within its capabilities but forwards requests not involving unified combatant command assets through the Joint Staff to the ATSD-CM for approval.

**Incident Command System(s).** The US Coast Guard, along with a wide variety of local, state, and national emergency management and law enforcement organizations, have adopted the Incident Command System (ICS) for all response operations. The ICS is a management system that can be used for any type of contingency or planned non-emergency event. There are five primary management functions: 1) Command--Sets priorities and objectives and is responsible for overall command of the incident. 2) Operations--Has responsibility for all tactical operations necessary to carry out the plan. 3) Planning--Responsible for the collection, evaluation, and dissemination of information concerning incident development as well as the status of all available resources. 4) Logistics--Responsible for providing the necessary support (facilities, services, and materials) to meet incident needs. 5) Finance--Responsible for monitoring and documenting all costs. Provides the necessary financial support related to the incident.

Nevertheless, there is still no designated focal point or lead with legal authority over all federal organizations that maybe summoned to an incident. Additionally no single agency at the local, state, federal or private level that possesses a totality of assets, resources, manpower, authority, training and expertise. No individual office can act unilaterally on so many difficult issues that may arise in response to threats or acts of terrorism where WMD is involved. An act of terrorism involving WMD, particularly an act directed against a large population center within the United States, may produce major consequences that could almost immediately overwhelm the capabilities of many local and state governments. Planning, coordination and training at all three levels of government needs to be proactive and continuous. It is paramount that all operate off an overall single sheet of music. In addition, any such activities are accomplished before an incident occurs in order to mitigate suffering and facilitate the restoration of essential government services. The FRP establishes **12 Emergency Support Functions (ESF)** and assigns a specific federal agency responsibility for each. Please see Appendix C.

### **More History, Doctrine & Law**

Well over a billion dollars have been invested by Congress to foster a collective federal effort and it is continuing in its efforts to address this new understanding of Nation Security. WMD is only one of such congressionally supported initiatives associated with Homeland Security. I have already provided a listing of these programs. There are other initiatives underway to identify more areas of national concern and attention. Such efforts include, but are in no way limited to, advisory panels, study groups, conferences, and continued research on possible threats or acts of aggression upon US citizens, territory, property, and interest. Some of the resulting programs or fields born out previous efforts are the National Missile Defense (NMD) and chemical, biological, radiological, and nuclear devices (CBRN). Other reports have added outer space, cyberspace, and information system security (Computer Network Defense (CND) and Attack (CNA)) to HLS. After the attack on the US Cole, a multitude of documents re-focusing our attention on the protection of our troops, facilities, interest, and critical infrastructure in both the continental (CONUS) and overseas (OCONUS) has been added to the HLS list.

Harvard University, Massachusetts Institute of Technology, Stanford University, and the University of Virginia came together to explore these reported changes in US security. The topics outlined in this paper were also address.

The group, through the Kennedy School of Government organized the Stanford-Harvard Preventative Defense Project. This group was tasked to research and understand what should define the United States post-Cold War Era defense strategy. In 1998, Ashton Carter, John Deutch, and Philip Zelikow wrote a report called "*Catastrophic Terrorism: Elements of National Policy*". This report that an act of catastrophic terrorism that killed thousands or even millions of US citizens would be a book mark in American history and "...undermine American's fundamental sense of security within their own borders...". Thus the threat (outlined within) deserves the kind of attention we now devote to military threats that are acknowledged, resourced (i.e. funding & manpower), and prepared for in the Department of Department's war fighting contingency plans. The question of preparedness are brought out in the report in their reference to what the USA did and spent during the Cold War in its intent to be ready for a Soviet attack. This same group reminds us that these attacks never took place, but we should always remain ready, and never be caught unprepared. This implies a change in the overall prevailing American attitude, particularly for its security and defense. Whether our being prepared was instrumental in keeping the Soviet States in check or did the USA waist a lot of time and resources on a threat that may be never existed, will always be an open debate. Regardless of your position on this issue, I am compelled to ask would anyone be willing to roll those dice (i.e. and potentially not be prepared) during this post Cold War era. To this point, the authors listed above wrote, "...our leaders will by judged negligent for not addressing catastrophic terrorism urgently."

The 1999, 1<sup>st</sup> Annual Report to the President and Congress from its Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving WMD stated the following. "The possibility that terrorist will use WMD in this country to kill and injure Americans, including those responsible for protecting and saving lives, presents a genuine threat to the United States." It went on to say, "...the stark reality is that the face and character of terrorism are changing and that previous beliefs about the restraint on terrorism use of CBRN devices may be disappearing." I found the eye opening statement of this entire report. The Panel said the following: the reasons terrorist may perpetrate a WMD attack include a desire to kill as many people as possible as a means to annihilate their enemies. They may also want to instill fear and panic to undermine a governmental regime. It could be intended to create a means of negotiating from a position of unsurpassed strength, like the Japanese with Pearl Harbor. Additionally it could also be intended to cause great social and/or economic impact.

Think about it! Some historians believe that throughout the history of this country's conflicts since our war of independence, there has been no other state of recognized sovereign authority that has confronted the USA with the intent of actually trying to defeat it. Korea, Japan, Germany, or even the Desert Shield/Desert Storm encounters were ever intended to defeat us in conventional warfare. Yet each did, as a matter of record, garnished the immediate attention of "the sleeping giant". Moreover, every one of our past aggressors used commonly demonstrated tactics and methods producing known capabilities and capacity. On the other hand, there were just as many adversaries who in our opinion violated what we thought were agreed upon rules of war. For the purpose of brevity, we will avoid the inclusion of potential fundamentalist or apocalyptic religious organizations, cults, and extremist groups in this paper. Moreover we need to keep in mind that domestically, radical groups made up of US citizens, do not share the fear of this country's employment of a greater military force or its retaliatory threat concerning our use of mass casualty devices, as would that of another nation state. In fact they bask and boast about the protections provided within our own laws. Before we go on, let's look back at what we are facing in a potential (man packed) nuclear bomb, a home lab created biological agent, chemical (i.e. fire) attack, and/or possible national or natural disaster.

From above it seems that the US should just about have these things covered. I would ask you to go to any of the incidents outlined in the beginning of this paper and ask yourself when is all this help to arrive? Next ask yourself, how the "first responders" (i.e. law enforcement, fire & rescue, public works/utilities, etc.) will arrive on scene and still be able to contact his/her supervising office in order to initiate the local response. I recently heard a joke the following on first responders will respond in accordance with a "blue bird test". This means that when the first person there (i.e. usually a police officer in a blue uniform) fails to answer the radio, the fire & rescue will be dispatched. Upon their arrival they should note the condition of the blue pigeon(s) and alert all other follow-on responders. Comically that may be the case but as a law enforcement officer of nine years that is certainly not the way I would prefer to have such a determination made. It is estimated that since the first responder community remains ill equipped, trained and unfamiliar with WMD or HLS that the greater number of this community will become a victim long before they assess what is happening. As virtually automatic potential casualties, they merely exacerbate the situation, thereby requiring those federal assets even sooner. This is primarily how and why the local authorities quickly and easily become overwhelmed and will immediately require reconstitution. You add local

medical facilities and eventually the state's assets and without formal notice, we have a full-blown crisis. At this point and at best, the state authorities can only mitigate.

Once the Governor calls the President and he dispatches FEMA. FEMA has no more equipment and certainly not the manpower of the local and state government. FEMA declares the Federal Crisis and almost simultaneously, the FBI is notified. The FBI initially sends suited agents, because one of them has to notify and start their HAZMAT Team enroute. As FEMA and the FBI set their respective responses in motion, the President's office is alerted. Moreover, for lack of preplanning or available organizational structure his office contacts the defense department. Ask yourself why the military? Isn't the state's military (i.e. National Guard) that are part of, thereby trained and equipped by, the same, already on the scene? Unlike the Active military, the state's Guard is supported by the collective capabilities of the National Guard Bureau (NGB). NGB through various state agreements are supposed to be able to produce or dispatch anything available within the Defense Department. After all they are over 50% of that both the Army and Air Force. Again due to limited document content, we will avoid these issues also!

The answer here is also simple. Although the Guard is additionally responsible for state disasters and emergencies, it is only funded for its war-fight missions. In other words, the basic or primary elements of the Guard, like the local responders, have very little preparedness assets, training, or capability inherent in its organizations. Therefore, who is responsible for sustaining federal support throughout the entire dilemma? In 1998 Appropriations and Authorizations Acts, Congress directed the Secretary of Defense to establishment new military units that were designed, equipped and specifically trained for such events. These teams were initial called Rapid Assessment and Initial Detection (RAID) Teams. Later in an attempt to avoid confusion with prior existing Drug Enforcement Teams using the same name, the military consequence management team's name was changed to Civil Support Teams (CST). Their mission - to assess the incident site, advise the incident commander, and facilitate worldwide communications as directed. These teams have been recognized in many exercises by other response organizations as better trained, better equipped, and more prepared for their mission than any other units, civil or military, in most states or regions.

This Congressional effort become a prime example of what is subject to happen in the absence of specific command, control, coordination, and governmental cooperation. It was written that Congress fully intended these teams to be available at minimum at the states. This was the primary reason why they exist within the National Guard and not the respective active service or joint staff. These new formed National Guard Weapons of Mass Destruction event Civil Support Teams (WMD-CSTs) were created to be a first follow-on unit which could provide some detection, assessment, and major communication capability to local incident commanders during a possible WMD incidents. Each team was composed of 22-person Active Guard and Reservist of the Army and Air Force National Guard(s). It didn't take long for DOD, through the Director of Military Support (DOMS) and the Consequence Management Program Integration Office (CoMPIO), to specifically identify these teams as key elements of the consequence management response in the National Security Strategy of the United States.

This act or action does not seem like much but to some experts in this newly formed field, this meant that actual first responders and local governments could not use CSTs without the permission or sanction of DOD. Others in DoD later figured that this could mean a longer delay in their potential response time. Nothing the CSTs would be directed to report to DOD before released or use by the local authorities. Either being the case, the dispute over command, control, training, funding, utilization, capabilities, and official authorized CST employment continues. Another element of the aforementioned debate arose in a DoD Inspector General (IG) Audit. A DoD IG audit team conducted an audit of the management of the WMD CST Program (Project No. D200LA-023). The Army non-concurred with the conclusion of the draft report, dated October 12, 2000 that asserts that the Consequence Management Program Integration Office (CoMPIO) ineffectively managed this program. CoMPIO was a subordinate office of DOMs and DOMS a subordinate office of both the Army and DoD. The Army reported that CoMPIO had done a remarkable job of establishing, managing, and executing the WMD-CST Program in accordance with implementing legislation and departmental guidance. The Army also non-concurred with draft report statements that CoMPIO did not use the appropriate (NBC and acquisition) expertise available within the US Army or DoD to develop doctrine. The Army response was that CoMPIO used hundreds of experts throughout the chem-bio community, as well as local, state, and federal response organizations to develop doctrine, training, and equipment. DOD added that the program had been lauded by the Gilmore Commission as an example of interagency cooperation. They both non-concurred with the report's contention that doctrine was not fully

developed and approved. In less than two years, CoMPIO created, stood up and fielded the CSTs. In doing such and with the cooperation of many federal, state and local agencies, they have integrated and documented that military's response procedures with civil procedures. This has also been accomplished with the full cooperation and involvement of all Army proponent schools, as well as experts from throughout the response community. The Army's Training and Doctrine Command (TRADOC) is in the final stages of formally publishing the developed doctrine to ensure it is fully institutionalized. Each response to the IG report fails to note that another major command, the Army Forces Command (FORCOM), continues to publicly declare the CSTs as "non-deployable" elements; citing several questionable reasons. So it has been two years and there are now 32 teams, yet none can be still be used for the purpose in which they were created.

Before we can address the concept of security v. crisis, we must first explore the intricacy of how we divide the fine line of federal v. local responsibility and authority. The Part 1 of the Gilmore Commission (Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving WMD) Report also recommended that the role of the responsible agency should be defined by the nature and severity of the incident. Since the first responders in an incident will generally be the local municipal or county agencies (i.e. fire and rescue and/or law enforcement), then initial responsibility, command and control should remain theirs. The first responders should retain such until either which time they determine it necessary to relinquish it or are overwhelmed by the circumstances. Thereby responsibilities, command and control are part of a governmental escalatory ladder. Once the local government exhausts their capabilities, then the state steps in. When state exhausts their resources and capabilities then they turn it over to the federal authorities. To date there is no central federal agency with such authority. Part two of the Gilmore Report(s) recommended the establishment of a central federal office or agency. At first, all that this office should be doing is create a viable national strategy to guide the development of clear comprehensive and integrated plan for domestic preparedness. Once completed this office should then focus on local state and federal roles. This should also produce national standards for responders at all levels. It should next develop programs to help fund, educate, equip, and support local responders. Almost in concert with, but not at the expense of the first responder's requirements, the federal office/agency should conduct a comprehensive review of all related federal programs, offices/agencies, capabilities, equipment, communications, research, testing, intelligence, and planning. Then use the national plan, standards, and assessment to review that of all local and state level assets, abilities, and level of

preparedness. Once we have connected all dots then we should have a better picture of what may possibly be needed, where and how much is needed in general areas around the country.

In January 1999, Mr. Fred C. Ikle, working on the Homeland Defense Working Group, for the Center for Strategic and International Studies (CSIS), a private institution for the purpose of answering international public policy issues, published "Defending the U.S. Homeland, Strategic and Legal Issues for DO D and the Armed Services." In that document, the author provided an analysis of 'Legal Authority for a Leading DOD Role' (please see Appendix D). In summery Mr. Ikle felt that the Constitution intended for the president to be the only commander-in-chief. He agreed that the authority to use the armed forces to resist attacks against the United States are subject to restrictions imposed by law and we need to fix that. More important he felt that DOD is in doubt of its lawful role and that may be the reasons why it fell to recognize its own priorities. Subsequently DoD has not satisfactorily addressed its role in responding to or inhibiting massive attack weapons. Mr. Ikle recommended a clearer understanding be provided to the DOD and this would help bring to bear the necessary resources for undertaking research, acquiring capabilities, training, and planning for successful HLS operations. That it is the inadequate or insufficiently understood legal authorities that have obfuscated the responsibilities of the executive branch and affect their allocations of resources and long-term changes.

The Center for Strategic and International Studies (CSIS)'s '*Final Draft of "Homeland Defense: A Strategic Approach,"*' by Joseph J. Collins and Michael Horowitz, dated 11 Dec 00, said "The United States faces a series of serious threats to its homeland." These emerging challenges are only low probability threats in the near term. Irrespective these threats are not new and they remain potentially high consequence threats. To begin to prepare for the potential defense of these threats, like the two-MTW, the unprecedented involvement of the military, federal civilian, state, and local leadership, as well as that of the private sector will be required. It is also an accepted fact that a shift in National Defensive/Security priorities will be the first undertaking by this leadership. Hard corps concepts of each of these organizations, agencies, and offices will have to be initiated, truly creating a new set of paradigms. For example, is the protection of the sovereign soil greater than our commitments and interest abroad? If so then our nations military may not be the organization, that presently deserving our greatest attention because IAW our military, the "first to fight" may well be a police officer, a firefighter, or an information system's



technician. In if this becomes the case then we must also agree that the U.S. military should not be the lead in meeting these threats.

In Dr. Hamre's speech also substantiated my position that there is and only should be one CINCUSA. That is the President as the constitutionally directed Commander in Chief. He suggests that the US needs to provide him the reliable staffing structure so that he can be effective in that role. He then recommended that the US first properly define the homeland defense mission. Secondly, develop applicable military doctrine to address that mission area. These efforts need development through exercises. The exercises should produce in a good theoretical blueprint leading to the intellectual exploration into the concept of homeland security. Dr. Hamre did agree that disciplined thinking, new paradigm, new levels of senior level cooperation would be required from all federal agencies and organizations with related issues. The Federal Government, state, and local governments will be required to work together in times of extraordinary crisis. History will also demonstrate that they have already cooperated in the resolution of national emergencies and natural disasters. Nevertheless, there is no record of such concerning terrorism or incidents of mass catastrophic event. More importantly, it appears that they do not seem to know how to or ever wanted to learn to cooperate in cases of catastrophic terrorist incident.

Another recommendation was provided by another CSIS Working Group in a report called "Defending America in the 21st Century New Challenges, New Organizations, and New Policies" on Homeland Defense. The authors were Frank Cilluffo, Joseph J. Collins, Arnaud de Borchgrave, Daniel Gouré, and Michael Horowitz. This report suggested a national plan for homeland defense. CSIS recommended that the president make the vice president responsible for most aspects of homeland defense. In performing this function, the Vice-President would be assisted by an "Emergency Planning Staff," or EPS, drawn from a reinforced national coordinator's staff and selected Department of Justice organizations. The National Coordinator for Security, Critical Infrastructure and Counter-terrorism would retain the current title and would become the principal deputy to the vice president for homeland defense issues. He or she would also continue to be a member of the National Security Counsel staff. The national coordinator would also become the chief of the Emergency Planning staff. The head of the Federal Emergency Management Agency (FEMA) would report through the national coordinator to the vice resident. Both of these positions would be confirmable by the United States Senate. Among his or her principal responsibilities, the vice

president would chair a new National Emergency Planning Council that would include representatives from all departments, agencies, states, and territories. This council would be the senior body for federal and state coordination on matters relating to critical infrastructure protection or response to terrorist incidents. Private-sector organizations could be invited to participate on issues related to critical infrastructure protection.

Their work must encompass federal, state, and local level responsibilities. The product(s) of this body must include a plan, which addresses threat assessments, objectives, essential concepts, and means. It would cover all details of the nation's defense against terrorists, as well as plans for critical infrastructure protection. Missile defense is more of a classical defense responsibility, but the U.S. homeland defense plan would also include provisions for consequence management against a foreign missile strike on the territory of the United States. Today, such an overarching plan is not possible because no one has the authority to write one and make it stick. Today, the nation has up to \$12 billion of federal budget authority, in search of long-term programs, which, in turn, are in search of coordinated and prioritized objectives. Recent suggestions about super coordinators or new deputy attorneys general ignore the complexity of this problem. The United States cannot rely solely on super coordinators or sub-cabinet officers to build new federal-state bridges or to ride herd on cabinet departments.

Under such reorganization, there would be no changes to the principal State Department, Justice Department, and FEMA responsibilities for crisis management and consequence management. Federal Bureau of Investigation and CIA counter-terrorist coordination efforts would remain unchanged. Neither the national coordinator nor the vice president would supervise ongoing counter-terrorism or counterintelligence operations. The National Infrastructure Protection Center (NIPC) would remain under the auspices of the FBI, and the Critical Infrastructure Assurance Office (CIAO) would remain at the Department of Commerce. Some consolidation of offices and/or functions would take place to support new EPS in the office of the Vice President. The National Defense Preparedness Office (NDPO), a Department of Justice clearinghouse for domestic preparedness, would be transferred to FEMA. Selected divisions of the Office of State and Local Domestic Preparedness Support, currently in the Office of Justice Programs, would also become a part of FEMA or the Emergency Planning Staff. The EPS and FEMA would also absorb responsibility for running training programs under the Nunn-Lugar-Domenici Act that were recently been transferred from the Defense Department to the Justice Department.

At the same time, the president and Congress should augment FEMA with personnel as well as administrative and logistical support to play a lead role in domestic CBRN preparedness. FEMA is already well integrated into state- and local-level activity, and it makes little sense to take away training for consequence management from the very organization that has been assigned that function. Because of existing knowledge and capabilities within the department of Defense, the Congress originally asked the Secretary of Defense to be the lead federal agency. Moreover, due to federal statutes and constitutional mandates this lead agency role eventually would shift to the Department of Justice. Under the CSIS recommendation, the Pentagon would realign offices so that it had one coherent system for civil support to natural disasters and to terrorism, as opposed to the two distinct systems that it has today. The Directorate of Military Support (DOMS) would no longer work for the Secretary of the Army, but instead would be aligned with the Joint Staff and JTF Civil Support. In the next administration, the Assistant to the Secretary of Defense for Civil Support should become a confirmable Assistant or Deputy Under Secretary. When appointed, this official need to ensure that lines of responsibility within OSD are clarified and that any overlap in ASD RA and ASD SO/LIC functions is corrected. To foster a more effective oversight, a bipartisan congressional Task Force should study ways to improve and simplify the oversight of selected homeland defense tasks. The objective would be for each legislative body to have only one authorization and one appropriations committee for cyber threats, CBRN terrorism, and critical infrastructure protection. The leadership of the House and the Senate should also appoint a minority and majority staff specialist in each of the appropriations and authorization committees to follow all counter-terrorism programs. These staffers can alert Members who are voting on a specific agency's counter-terrorism program as to how that program or policy fits into the overall U.S. counter-terrorism effort.

Certainly the most recent and forefront in the current US administration sights is the U.S. Commission on National Security/21st Century (i.e. Hart - Rudman Report). The Commission's proposals ran similar to the recommendations outlined in the aforementioned Gilmore Report(s). Both reports were designed to address this issue and culminated in a final report with suggestions directed at how to go about repairing this newly identified US weakness. The Hart-Rudman Report was ordered and directed to the attention of the Defense Secretary and the US Congress. Phase Three of the Hart-Rudman Report provided in detail a sort of step by step plan. A short

synopsis is given below, but I suggest you refer to the Booz, Allen, & Hamilton's (BAH) "HLS Champaign Response to the Road Map for National Security: Imperative for Change". The Hart-Rudman Report recommended the President and Congress agree to create a National Homeland Security Agency (NHSA). This organization would require the creation of an Assistant Secretary of Defense for Homeland Security within the Office of the Secretary of Defense, reporting directly to the Secretary. They would have the sole responsibility for planning, coordinating, and integrating various U.S. government activities involved in homeland security. Additionally that FEMA be used as the foundation for this new a federal organization. It also stipulated that the US Customs Service, the Border Patrol, and Coast Guard be transferred to the new National Homeland Security Agency. The President should also make homeland security a primary mission of the National Guard. He must personally guide a top-down strategic planning process and delegate authority to the National Security Advisor to coordinate that process. A more detailed version of the Third Phase Report is provided in Appendix F.

Most involved in this newly formed community believes that training and exercises are the two essential components of the overall training program. Achieving a level of enhanced readiness is directly linked to both. Training must be conducted to ensure an efficient and effective response. Exercises offer an opportunity to practice response operations and to validate training. A Federal interagency team comprised of representatives from the Department of Defense, FBI, FEMA, DOE, EPA, and PHS designed and conducted this training. It was suggested that they start with team representatives explaining their roles and capabilities to the city. The city then schedules training and determines which classes are best suited for the community's emergency responders. Initially, 120 cities are to receive this training. An additional number are planned for future years. These cities are trained in a team approach that combines subject matter experts with experienced emergency responders. After initial training, an interagency tabletop exercise provides opportunities for emergency responders and city leaders to demonstrate practical decision making. These courses are designed to "train-the-trainer," supplying emergency responders with the knowledge and experience needed to conduct their own training program with specialized NBC training materials.

The currently available military handbooks state that the lead federal agency's response to a terrorist incident is to be executed using the Federal Lead Agency structure described in the PDD-39 and FRP provide above. There is no

single source that tell a first responder or average citizen who to call, explain when they should expect help, or who's plans, commands, and directives are to be followed when they arrive. We now understand that overall responsibility for crisis management and counter terrorism is assigned to the DOJ, which delegates that job to the FBI for threats or acts of terrorism within the United States. We also know that FEMA is the lead Federal Agency for CM. With the support of all agencies identified in the FRP, they shall act in support of the FBI until the Attorney General shall transfer the lead agency role to FEMA for CM. And when directed by the National Command Authorities (NCA), USCINCFCOM establishes and deploys the CJTF-CS to the designated joint operations area (JOA) to support the designated lead federal agency (LFA) in CM operations as a result of a WMD incident. My next question is even simpler: how would the local incident commander react to all this help or from his view point added responsibility?

The President may accomplish any one of the above plans by simply reassessing the individual turfs' of several federal organizations. Such as DOD's being the only federal agency with a standing organization for strategic planning for the protection of US interests and its ability to provide massive manpower, transportation, and equipment. FEMA has sole authority to reimburse for federally supported efforts in natural disaster and emergencies. The FBI's authority to investigate matters concerning violations of US laws. The CIA ability and authority to collect information, which may provide advance notice or possible, circumvent efforts of foreign and domestic aggressive actors. The State Department ability to understand and identify areas or actors whom may pose or present future negative conduct or tendencies toward US values or interests. There are numerous federal offices, depending on their area of responsibility or interest (i.e. medical, infrastructure, governmental, educational, etc.); official capacity; and place on the federal ladder or process (i.e. NSC) where their individual and collective capabilities, information, or intricate lines of responsibility or authority can be combined or at minimum re-made to work together.

History would also demonstrate that there has been no greater moment in American history that the American public has shown its collective attitude, effort, or capability than those in which it found itself under attack. Yet I remind you that it is theorized that the next (series) of small events (i.e. attacks) may or may not appear as a single effort or by a single entity. If correct a potential attacker may not want us to know we are under attack until which time we

are so engrossed with regaining order, security and protection that we are too weak to actually provide for our own defense. There are other questions revolving around our military's structure and ability to assist in local incidents and still maintain its duties of defending our borders and interest abroad. This drives the questions as to prioritizing CONUS requirements (i.e. taken off or out of their tanks and ships) v. OCONUS deployments and international obligation. This paper also does not cover another highly discussed fact that this country is in a period where it is already reporting shortfalls in keeping pace with existing international duties and commitments. Humanitarian or missions other than war, include both military and civilian assets. These include, but are not limited to, medical, law enforcement, fire & rescue, nation building, and the list extends from these less to more complex tasks such as providing governmental operations. If continued, there are not enough of these assets to cover both existing foreign requirements, let alone attempt to address potential domestic ones.

The founding fathers of this country had set forth the building blocks to address the subject matter of their paper. Moreover, as one of this country's military officers, I would profess that the American public has nothing to fear from its military running amuck. Nevertheless, it does have a mission that is also theorized to be just as important and more complex than that depicted during the cold war period. In other words we are already widely spread, under resourced, and hard pressed to meeting the currently changing world environment. I, for one, would not want that same department to have to weigh or balance security or protection issues as CONUS v. OCONUS requirements. Everyone involved in the conferences that I attended knew that most federal offices are reporting to be already undermanned, under-resourced and over burdened. Thereby a new chief, within the authority of our Supreme Commander in Chief, needs to be seriously thought out before simply emerging such. Irrespective of the title, his/her only job must be to provide for the security and protection of the citizens and property of the USA. Additionally there should be no confusion in funding constraints or manpower allocations.

## **RECOMMENDATIONS**

The results of my research sustains my position that the U.S. government already has sufficient leadership, resources, ability, beginning technology, and an adequate capability to provide for the security and defense of the US homeland. Almost every study and report written to date calls for some sort of reorganized government. This

reorganization would give one agency, office, and/or senior official the overall authority and responsibility of the homeland security mission. There are numerous documents written exactly on the topic within this paper. Some of them we have already mentioned. In most information involving recommendations for HLS, it appears to be a commonly accepted suggestion that the national security community needs to refocus to provide more for HLS.

1. IAW recommendations above, I would initially assign the stand-up of the HLS organization to the Vice President and the primary deputies of each cabinet secretary. This would be done with the full understanding that their job is to get it rolling and eventually hand it over to another leader which would be appointed at a later date. I would allow the existing deputies to have first consideration for the ranking HLS office chair. If declined by all then it would be open to external application processes.
2. I would next establish this office as a civilian CINC for HLS, only in concept. Assign this individual to the National Security Council. This individual will be responsible for policy funding, training, planning, coordination, and every thing else related to HLS.
3. Then I would realign the applicable sections of FEMA, DOD, DOJ, and any other existing structure to provide for the day to day and emergency requirements of the organization. My initial desire here is that the remain primarily part of their existing organization but are restructured in such a fashion that it is understand that they are now movable pieces of a grand puzzle. In other words now they secretaries used like the service chiefs of DOD by its CINCs. They have their primary functional areas and day to day duties. In times of national need then they are force providers.
4. After the plan and program are mapped up by the above, then its time to incorporate the promised congressional (funding) support. Once achieved a it would be time to institute a massive training and exercise program(s) from top down.
5. Not exactly following the above, I would almost simultaneously export the to state and local authority for input, participation and duplication of the same stages outlined above.

The formulators of such an office, after assessing the requirement for top level members from each of the other government offices, should consider automatically making the Chief of the National Guard Bureau the military deputy. The National Guard's state missions (i.e. state's 911 for emergency assistance and natural disaster) are

certainly well within the scope of this new requirement, thereby as its military deputy, they provide a bridge or automatic link between state and federal authorities without violating existing laws. I would also recommend that the respective Directors of the Army and Air Force National Guard should remain in DOD under their respective service Chief. There they can over see the coordination and insurance of the collective Guard's (911) war-fight responsibilities and capabilities. This also maintains the checks and balances desired in the laws governing the balance of power. To date I have not heard this concept discussed. There is no other existing office that currently exist at both levels and already have all related mission concerns. They bring a large collective manpower base, have on going training, equipment and capability, have in ingrown sensitivity to the nuances of both the civilian and military communities, and they are already networked into many of the local, state and federal agencies. However, who shall ever consider this option should also be fully advised that it too, would need adequate assistance to meet an expanded expectation and requirement. For two other Senior Service College recommendations on the use of the Guard, please see Appendix G.

## CONCLUSION

I have a tee shirt with a slogan that is very applicable to the subject addressed above. However, I can not recall where I acquired it in which to give proper credit (SORRY!). The tee-shirt on the front says "THE NATIONAL GUARD" and on the back it says "America's 911." Simply meaning that in times of national emergency it is in the National Guard that the founding fathers of the United States stressed its responsibility to collectively provide and add to the total protection of the United States of America. Thereby the National Guard comprises the Strategic Reserves of the Army and Air Force of the Department of Defense. So who and/or where is that 911 for terrorism, counter-terrorism, and incidents involving WMD? The FRP says that is FEMA during the course of mitigation and the FBI immediately afterwhich. However, each of their internal documents reference themselves. Members of these communities have publicly suggested that maybe the military will not be required. Most state emergency response plans include their National Guard. This is where DoD suggests an initial military presence and its JTF-CS/CM will be there to help. It appears that everybody "will come" and additionally it sounds like even before the call from the state's leadership. If it were my job, I would immediately call upon the US President and let his office deal with the vast federal support task force. I can clearly see FEMA and the FBI discussing their plans,



coordinating a collective effort, and simply waiting on the local leadership to tell them what to do. Let us not forget the military and the entourage it could bring to the table. Moreover, nothing I have read explained how does an incident commander fit all these players on the same ball field. For without proper training and exercise how would he/she have a clue as to instruct or lead their efforts? After each of these agencies hit the ground and get into the game, will they have the capability of knowledge to determine, notify, and scramble other federal expertise or necessary agencies of the vast federal infrastructure. Nevertheless, we now know that there is no single office or agency with the sole or over arching responsibility or authority for which to immediately supply help or lead this country's necessary preparedness effort.

It is not my design or desires to point fingers at any one or combination of responsible federal organizations or branch of government. I am convinced that in time of great emergency that we all want to help. Consequently, my sole objective, as with so many others outlined within, is clearly to demonstrate the need for a US 911 Office, Organization, or Agency. Just like the 911 of any local jurisdiction, if that office does nothing more than direct the call to the appropriate federal location, than this would be a tremendous accomplishment and assistance. I would additionally like to see such an office come from within existing federal structure and funding streams. This office, in fact, would then not really be new, other redefined and accountable responsibilities. The greatest difference in my recommendation that may differ from some of the aforementioned plans is that they are not to be considered a command. Although adding oversight for policy, training, resourcing, evaluation, etc. could be an excellent idea. In any case, it is not to be misunderstood that the President remains ultimately in command, thereby fully accountable to the American public. His role and responsibilities are supported by of existing laws and all we want added are those now being referred to as matters involving mass casualties and destruction. The President is that focal point and already has the authority to define and direct the collective efforts of the federal government. He may need new and additional support from the US Congress and he will have to do some in house cleaning to accomplish this task. With the assistance of this HLS agency we must eventually create, establish and maintain plans, operations and capability to provide for the integration of local, state, federal, and industrial assets, resources, capabilities. It is imperative we start up that path to collectively and truly be prepared to "... (re-) establish Justice, insure domestic Tranquillity, provide for the common defense, promote general welfare, and secure... Liberty ... and our Posterity" as ordained and established in the CONSTITUTION for the United States of America.

I hope to have STIMULATED your thought as well as solicited your interest in HLS/WMD related subject(s). Although I to varying degrees, agree with some of provided outside information such as the Gilmore and Hart-Rutman Reports. I originally intended to avoid providing my own plan. I want to provide a broad perspective on the topic and demonstrate to broad range of ideology and ramifications that are being discussed throughout the military, civilian, private, and governmental sectors of our society. I am of the school of thought that we need to continue researching and writing these senior level reports. We also need to leap to the next level, as Congress attempted to do with the CSTs, and start the work toward actually getting prepared to the best we know how right now. There are plenty of experts out there. I suggest we select a direction, with an assumption that it is probably going to change. This direction must be supported by every office and agency of the federal government and give it the resources, responsibility, and authority to do what is already agreed upon as to what needs to be done. Immediately after this is rolling, this office should be required to directly link and assist the related state and local government offices.

It is irrelevant what we call this new office, from which existing federal agency the foundation is made, or even what the agency's leader is titled. I personally prefer the Gilmore report's suggestion that such a task or authority is given to the Vice President of the United States, because he is the legally designated first officer to the President. The fact that the President, supported by Congress, may create (for lack of title) a new second officer; should not be a stopping gate to the process of providing for the protection of the American people on the sovereign soil of the United States. I also like the recommendation that this office operate much like that of the existing National Security Council. Just as outlined in many reports, this new office or officer should not be less in authority than an associate or equivalent to the current cabinet secretaries. The President might also want to look at the position as the first Civilian Commander in Chief (CINC) of CONUS. Making this new position head, the CZAR for Homeland Security, equal to that of the Drug Czar, is also unacceptable. The new Homeland Security Chief, during the appropriate periods of National Security, will have to have the power and ability to solicit, operationally control (borrow), and/or temporarily take assets and resource of possibly all federal organizations and offices without bartering or begging for them. He/she will not be able to accomplish this if he/she is subordinate to those they may

have to turn to. Much like the privileges of command understood and judicially upheld and respected, there may not be time and sufficient justification(s) to gain collective agreement or cooperation.

The founding fathers, with reservations, laid a foundation for which can be used to address WMD concerns. Law and history provide the details of the state's role through out an incident. It is already seen that through out the history of the United States we have experienced numerous emergencies and handled each of them within existing leadership and structure. We need only rebuild those weakened chains. It is still my position that our present military would never pose a threat to its nation. I recognize the concerns of our founding fathers in that no one can say that this will remain a fact in the centuries to come. I would challenge any one to temp fate! One will have to think out the box in order to achieve these improvements to aging systems, processes, and structure.

The governors are in charge with all the assets of his state and those of the collective efforts of supporting states. Nothing forbids the President from assisting and when called upon he should. What we should be doing is fixing what is broke and creating any additional assets that maybe required to assist them in those responsibilities. If that is restructuring, re-missioning, or retraining our military than we have to pay for that too. With all those who are currently available and certainly will be required for these purposes, we need to simply connect the dots as we paint the support for any effort. Regardless if we realign those forces, offices, departments, secretariats, etc. under the President, a Governor, a Military Leader, or a Civilian appointed by the appropriate authority it seems simple to me. Just like the military can re-align its forces amongst its CINCs than maybe we need to train or re-legislate the applicable agencies to be able to answer accordingly when it is called for. Who is in charge should not be the question. Rather, what does he need, do we have it, and how we will get it for him. Whether one believes in history, religion, horoscopes, or any other methodology of forecasting man's destiny, this country can ill-afford to continue to wait.

I can think of no better way to end this research other than adding a Major, working in DA Plans & strategy Office, response to the DoD IG Audit Report-WMD CST, discussed above. MAJ Spence wrote: "We have sworn to protect and defend the United States, but we are not ready to do that for these types of attacks. We must also be able to translate the capability (equipment and procedures) we develop to the civil responders we support, so they too can

perform their vital roles in law enforcement, fire fighting, and medical response. A catastrophic event will require that we can all work effectively together. None of us can do it alone. Even in urban areas attacked overseas, we must employ the same types of capabilities we need for domestic support. CINCs, here and abroad, need these capabilities now. We do not have time to continue to debate. We understand the threats, the requirements, and the needs. We must now overcome the many organizational jealousies and disagreements that preclude us from fielding those capabilities. It can be done quickly. We have proven that. We have gathered the experts on many different topics; listened to what they have said, and made the best decisions we could make to produce results with the information and technology available. We must continue to produce rather than only discuss them. The experts are in the military and civil response organizations in the United States. Let us eliminate the politics, the red tape, and the internal organizational infighting, roll up our sleeves, and get to work. The question is not, "Who is in charge?" The question is "What needs to be done?" Waiting for funding so we can hire someone is not acceptable. We must sit down together, figure it out, and implement a best (accepting there are no perfect) solution; then continue to improve it. We can and should engage industry and everyone with a good idea that wants to be part of the team. Our nation can afford no less. Nations are judged by what they are for, not by what they are against. What are you for?"

**DISCLAIMER: "The views expressed in this research paper are those of the author and do not necessarily reflect the views of the Department of Defense or any of its agencies. This document may not be released for open publication until it has been cleared by the appropriate military service or government agency."**

## **ABSTRACT**

**AUTHOR:** LTC John Washington

**TITLE:** Homeland Security Leadership and Management:

*"Reawakening A Sleeping Giant"*

**FORMAT:** Sponsoring Institution Written Research Product

Fletcher School of Law and Diplomacy, Tufts University

**DATE:** 30 March 2001      **PAGES:** 33 (actual research pages) / 56 (entire package)

**CLASSIFICATION:** Unclassified

### **DESCRIPTION:**

**Focus:** This paper will concentrate on the unanswered question of federal leadership and/or management of the potentially vast federal assets which could possibly be required during periods that seemingly appear to be local in scope. Then they quickly build exhausting state and local resources and capabilities. These incidents continue to grow in increasing complex crisis management. Until eventually, it maybe recognized that they maybe unknowingly defending the sovereign soil of the United States of America. Do we need a federal management requiring a new Presidential Cabinet Secretary, another federal agency, a DOD "War Fighting" military Commander-in-Chief (CINC), or simply a new CZAR? In addition, if so, why?

**Purpose:** The paper is not to answer the question, only to readdress the already open issue. In doing so I will attempt to provide the uniform and non-uniform leadership of our nation, who will inevitably be required to answer that question with some historical and factual "food for thought". The design of this paper and purpose is simply to provide information that should lead the reader to believe that we already have such in place.

**Discussion:** It is my personal belief that our founding fathers, with reservations, laid a foundation for which to address this concern. This country should only have to strengthen or exercise a few extensions that may not have been used in a long time. In other words we have a system, with appropriate checks and balance, already established that are responsible for leadership, management, and guidance. It will take some additional work to tie some of the offices together. Moreover, if you accept that, than I will propose we get started immediately!

---

## **Appendix A**

### **Extract from the DOD Emergencies Handbook.**

#### **DOMESTIC EMERGENCIES**

**Major Disasters** are hurricanes, earthquakes, wildfires, and other man-made or natural disasters, which result in suffering and damage of a severity or magnitude that overwhelm the capabilities of the responding authorities. Although they are considered local, other federal resources may be required to supplement local, state and even other federal efforts.

**Civil Emergencies** are civil disturbances, strikes, mass immigration, environmental incidents, and other emergencies that may endanger life and property or disrupt normal governmental functions to the extent that authorities require military support.

#### **EMERGENCY RESPONSES**

**Crisis Management** is the response, which occurs under the primary jurisdiction of the federal government. The primary or responsible agency for acts of terrorism is the Federal Bureau of Investigation (FBI) of the Department of Justice. Crisis management response involves measures to resolve the hostile situation, investigation, and preparation of criminal prosecution requirements.

**Consequence Management** situations and responses are handled under the jurisdiction of the affected local and state governments. The president of the United States may direct assistance but only after consultation or request with the state's governor. The agency with lead responsibility under this circumstance is the Federal Emergency Management Agency (FEMA). This response may involve measures to alleviate damage, loss, hardship, or suffering caused by the emergency. This may include measures to restore essential government, business, and individual services. This authority does not exist in situation found to have resulted in nuclear, biological, and chemical (NBC) materials.

**Technical Operations** responses involve matters of (NBC) related materials. These measures require identification and assessment resulting from an incident involving hazardous materials. Depending of the substance various (unrelated) federal agencies can be brought to bear. For instance, the Nuclear Regulatory Commission will handle incidents involving nuclear plants. While the Department of Energy will handle, nuclear devices and/or materials and the Environmental Protection Agency will handle chemical devices and/or materials. There is the Department of Public Health, the office of the Surgeon General, and many others who maybe called upon in matters involving biological agents.

## Appendix B

### Other Federal Participants

#### 1. Federal Agencies Other Than Department of Defense

a. The **Department of Justice/Federal Bureau of Investigation**. In accordance with PDD-39, United States Policy on Counter-terrorism, DOJ is the LFA for counter-terrorism and for threats or acts of terrorism within the United States. The FBI's lead role in these situations stem from the fact that such incidents will have law enforcement implications, and they have the requisite capability to manage an event from the Federal law enforcement perspective. As such, it is the FBI's policy that crisis management will involve only those Federal agencies requested by the FBI to provide expert guidance and assistance.

(1) Within the FBI is the **National Domestic Preparedness Office (NDPO)**, which is responsible for coordinating all Federal efforts, including other Federal departments and agencies, to assist state and local first responders with planning, training, equipment, and exercises necessary to respond to a conventional or WMD incident.

(2) Command and control teams within the Federal Bureau of Investigation are its **Domestic Emergency Support Team (DEST)** and **Critical Incident Response Group (CIRG)**.

(3) Another federal team with limited biological response capability includes the Federal Bureau of Investigation's **Hazardous Materials Response Unit (HMRU)**

b. The **Federal Emergency Management Agency** is the LFA for consequence management (CM). FEMA must be prepared to deal with the consequences of a terrorist incident. The Director of FEMA is tasked in PDD-39, US Policy on Counter-terrorism, to ensure that the Federal Response Plan (FRP) is adequate for CoM activities in response to terrorist attacks against US populations including those where WMD are involved. FEMA is organized into ten geographic regions that provide support on a national basis. If the terrorist incident is beyond the capability of the local and state governments then FEMA coordinates the activities of Federal, state, and local agencies at the national level. Response by FEMA is to be accomplished using **Emergency Support Team(s)** and in the affected area with its **Emergency Response Team (ERT)**. These activities include mitigating damage, loss, hardship, or suffering caused by the incident; to protect public health and safety; to restore essential government services; and to provide emergency assistance. After a Presidential declaration, the Director of FEMA, on behalf of the President, appoints a **Federal Coordinating Officer (FCO)**. A FCO is responsible for coordinating all Federal disaster relief and assistance programs, in the declared area(s), to ensure the maximum effectiveness of federal assistance.

c. The **Department of Energy (DOE)**. DOE owns and operates a variety of radiological activities throughout the United States. With specialized deployable assets, DOE assists other federal agencies responding to nuclear emergencies, incidents involving nuclear weapons not under DOE custody, incidents involving satellites containing radioactive sources, and other radiological incidents. Specifically, DOE provides scientific and technical assistance regarding threat assessments; search operations; access operations; diagnostic and device assessments; disablement and render safe operations; hazard assessment; containment, relocations, and storage of special nuclear material evidence; and post-incident cleanup. The DOE Nevada Operations Office (DOE/NV) is the central point of coordination for the support of all CM operations for DOE. DOE's concept is that their CM official will deploy within 4-hours of notification to support the LFA. This official will work directly for the DOE Senior Energy Official, but is to provide technical advice and recommendations on all radiological issues to the primary agency.

d. The **Department of Health and Human Services (DHHS)** is the primary agency for "Health and Medical Services," under the FRP. The **Public Health Service (PHS)**, an agency of the DHHS, leads this effort by directing the activation of the **National Disaster Medical System (NDMS)**. In accordance with PDD 62, Protection Against Unconventional Threats to the Homeland and Americans Overseas, DHHS is the lead agency to plan and to prepare for a national response to medical emergencies arising from the terrorist use of WMD. This department, with the support of other Federal agencies will:

- Provide enhanced local response capabilities through the development of **Metropolitan Medical Strike Team (MMST)** systems.
- Develop and maintain the NDMS; including the **National Medical Response Teams (NMRT)**.
- Coordinate with the Department of Defense to ensure deployability of NDMS response teams, supplies, and equipment.
- Coordinate with the **Department of Veteran Affairs** to ensure adequate stockpiles of antidotes and other necessary pharmaceuticals nationwide and the training of medical personnel in NDMS hospitals. For additional information on the DHHS, refer to JP 3-08, Interagency.



e. The **Environmental Protection Agency (EPA)** is to activate an environmental response capabilities to support the Federal response to acts of WMD terrorism. The EPA establishes a coordinated response by Federal departments and agencies, state and local agencies, and private organizations to control oil and hazardous substance discharges or substantial threats of discharges. For chemical incidents, EPA's **National Response Team** can identify, contain, clean up, and dispose of chemical agents. For nuclear incidents, EPA's **Radiological Emergency Response Teams, Radiation Environmental Laboratories**, and Environmental Radiation Ambient Monitoring system will monitor and assess radiation sources and provides guidance.

f. **The American Red Cross (ARC)**, eventhough they are not an entity of the government operates under a charter from Congress as America's official volunteer relief agency. In that capacity, the ARC has a major role in disaster assistance operations, and is designated in the FRP as the primary agency for ESF 6, "Mass Care." Due to the general nature of its charter, ARC also can provide support in environmental assistance, law enforcement, and selected community assistance operations.

## 2. Department of Defense

a. The **Secretary of Defense (SecDef)**, when authorized by executive order of the President directs the employment of active Federal forces to support CM operations. The Secretary of Defense also establishes the standards of conduct.

b. The **Assistant to the Secretary of Defense for Civil Support (ATSD (CS))**, provides civilian oversight on, behalf of the Secretary of Defense, for the development and implementation of planning guidance, policies, and procedures for the newly established JTF-CS; a HQ element subordinate to United States Joint Forces Command. This official also is the focal point for the coordination of DOD efforts in preparation for requests from civilian agencies on WMD-CM. Departmental efforts related to WMD-CM must be coordinated through this office.

c. The **Defense Threat Reduction Agency (DTRA)** is to ensure US readiness and ability to respond to WMD threats. It provides emergency response for matters involving WMD incidents. DTRA operates the **DOD Joint Nuclear Accident Coordination Center (JNACC)** in cooperation with DOE. The JNACC maintains current records reflecting the location and capability of specialized units and teams that can be used for a nuclear accident/attack response. It also can assist the DOD OSC at the incident site and the **National Military Command Center** in locating and dispatching required technical resources. DTRA maintains a deployable advisory team called the **Consequence Management Advisory Team (CMAT)**. It is composed of CB Officers, legal, planners, public affairs, plume modelers, and detection equipment. The CMAT assists the OSC in the management of nuclear related issues. This team is on-call 24 hours a day and can deploy within 4 hours of notification.

d. The **Chairman of the Joint Chiefs of Staff** is responsible for ensuring that plans are developed to support and execute military operations to manage and mitigate the consequences of the use of WMD. He is also responsible to ensure there is a broad spectrum of US military capabilities to conduct domestic CM operations as part of a larger USG interagency effort to manage and mitigate consequences of a WMD incident.

e. The **Joint Staff (JS)**: most of the Joint Staff directors have specific domestic CM responsibilities within their functional area of expertise; however, the JS J-3 is the JS office of primary responsibility.

f. The **Service (Army, Navy, Air Force, & Marines) Chiefs** will organize and train forces to conduct CM operations.

g. The **Director of Military Support**. DOMS is the DOD primary point of contact for all Federal departments and agencies during DOD's involvement in providing military support to civil authorities. In most cases, the forces involved respond to direction and guidance through DOMS. The DOMS ensures the planning, coordination, and execution of the military support for domestic emergency disaster DOD support. However, responsibilities in dealing with combating terrorism, both crisis management as well as consequence management, are handled by the Joint Staff. Maintaining DOMS as the DOD primary point of contact alleviates confusion with other Federal departments and agencies as to which DOD agency they should contact in support of any domestic emergency. If the response is in support of a CBRNE-CM incident, DOMS will forward the request to ATSD (CS) for action.

h. The **US Commander in Chief for Joint Forces Command (USCINCFJCOM)** serves as the DOD principal planning agent and supported commander for CM operations for the 48 contiguous states, the District of Columbia, and US territorial waters within US Joint Forces Command's (USJFCOM's) area of responsibility (AOR) and validates all requests for military assistance during CM operations in CONUS.

i. The **Commander in Chief, United States Southern Command (USCINCSO)** serves as DOD principal planning agent and supported commander for CM operations in the Commonwealth of Puerto Rico, the US Virgin Islands, and US territorial waters in the Gulf of Mexico, and validates all requests for military resources during CM in US South Command's (USSOUTHCOM's) AOR.



j. The **Commander in Chief, US Pacific Command (USCINCPAC)** serves as DOD principal planning agent and supported commander for CM operations in Alaska, Hawaii, Territory of Guam, Territory of American Samoa, Commonwealth of the Northern Mariana Islands, US administrative entities, and US territorial waters within the Pacific Command, and validates all requests for military resources during CM in US Pacific Command's (USPACOM's) AOR.

k. The **Joint Task Force-Civil Support (USJFCOM)** is responsible to resource and train the JTF-CS, to support the LFA in CM response operations as the follow-on DOD force behind local first responders and state assets. JTF-CS will deploy when the President has approved a Federal emergency declaration or the proper execution orders have directed DOD support to the LFA. The JTF-CS is a standing JTF HQ with an operational level focus. It is organized and trained for a flexible response, and forces will be tailored based on the type of WMD incident (i.e., nuclear, radiological, biological, or chemical) and support requested by the LFA. It will provide DOD C2 and have operational control (OPCON) of all DOD assets, less special operations forces (SOF) and the **US Army Corps of Engineers (USACE)**, in support of the LFA. The JTF-CS will initially focus its efforts on incident assessment and rapid deployment of DOD capabilities to ensure efficient and synchronized support to LFA efforts. Once forces have arrived to the incident site, the focus will shift to fulfilling requests for assistance from the LFA and OSC. The JTF-CS, co-located with USJFCOM in Norfolk, VA, is composed of personnel from the active components, RC, government civilians, and contractors. Additionally, a battle-rostered staff from USJFCOM and its components augments the JTF-CS.

(1) Subordinate to the JTF-CS could be two **Response Task Forces (RTF)**, which are also C2 elements. RTF-E is made up of approximately 80 personnel from HQ, 1st Army, stationed at Fort Gillem, GA, and Fort Meade, MD. If deployed alone, the commander, RTF-E assumes OPCON of all committed DOD elements (less SOF AND USACE), coordinates military support of crisis and consequence management operations, and redeploys when DOD disengagement criteria are met. RTF-W is composed of approximately 105 personnel from HQ, 5th Army located at Ft Sam Houston, TX. If deployed alone, the commander, RTF-W assumes OPCON of all committed DOD elements (less SOF AND USACE), coordinates military support of crisis and consequence management operations, and redeploys when DOD disengagement criteria are met. On receipt of a warning order or execution order, an Immediate Response Team will immediately establish a command post at the Fifth Army emergency operations center. They are not force providers, but rather receive OPCON of DOD forces and exercise C2 of these assets in support of the LFA as it responds to a WMD incident. The combination of the HQ and the OPCON assets form the Response Task Force.

(2) The **Chemical Biological-Rapid Response Team** is a C2 element from the Soldier, Biological, and Chemical Command (SBCCOM) that, on order, deploys, in support of the LFA, and assists in the detection, neutralization, containment, dismantlement, and disposal of WMD articles containing chemical and/or related hazardous materials (HAZMAT) and assists first responders in dealing with potential WMD consequences. Additionally, it provides medical advice and support for patient decontamination, triage, transport and treatment, and technical CB medical and non-medical advice. It will be OPCON to the supported combatant commander, joint special operations task force, JTF-CS, or RTF, as directed.

(3) The **Defense Coordinating Officer (DCO)** and Defense Coordinating Element (DCE). The DCO is the DOD representative appointed by the supported combatant commander to coordinate on the scene activities with the FCO. The DCO is the focal point for all DOD response and is the DOD on-scene interface with FEMA, other Federal providers and the SCO representative located in the DFO. FEMA and other federal agency requests for support from DOD go through the DCO for validation and resourcing from appropriate military organizations. Although the DCO will be OPCON to the JTF-CS or the RTF during a WMD incident, the officer, normally an O-6 or above, will operate in the DFO in close coordination with the FCO. A multifunctional staff of military officers referred to as the DCE assist the DCO.

(4) **US Joint Forces Command** has other deployable assets that can be made available to USPACOM and USSOUTHCOM for CM responses to WMD threats or incidents within US territories or possessions within their respective AORs.

L. There are **numerous other units and organizations within the Department of Defense**, and more specifically within each of the Services, to include the US Coast Guard, that can provide technical support and assistance for WMD incidents. Other federal teams exist for command and control purposes or have limited biological response capability. Such as DoD's Atlantic Command (ACOM), Forces Command (FORSCOM), Federal teams within DOD is the US Marine Corps' Chemical Biological Incident Response Task Force (CBIRF).

3. The **National Guard** serves at both state and federal levels depending on national situation.

a. The NG, in state status, is the governor's primary response organization for WMD incidents. When necessary, governors may borrow NG forces from other governors. The NG forces respond under the governor's control, rather than Department of Defense, and do so in accordance with state laws and applicable interstate compacts.

b. However, when NG units are federalized by order of the President, they then fall under the same limitations and C2 arrangements as active component military organizations. Specific NG units that are being trained to respond to WMD incidents are the WMD Civil Support Teams.

c. **WMD Civil Support Teams** are the first military responders.

(1) They consist of 22 full-time (Title 32) soldiers and airmen sub-organized into six sections. The mission of the WMD Civil Support team is to rapidly deploy to an incident site to assess a suspected nuclear, biological, chemical, or radiological incident in support of a local incident commander (e.g., fire chief, police chief). Also, these teams advise civilian responders regarding appropriate response actions and facilitate requests for assistance to expedite arrival of additional state and Federal assets to help save lives, prevent human suffering and mitigate greater property damage. The teams are geographically and strategically located within the 10 FEMA regions. When responding to a domestic support request, the WMD Civil Support team will remain under state military control unless federalized.

(2) The teams, as NG assets, have a state mission, and based on their capability to be called to Federal service have a Federal mission. The WMD Civil Support team is designed for domestic CM and may be deployed as a state asset, along with other state NG units, without DOD authorization. If responding in a Title 32 status, the team will remain under the control of their State Adjutant General. Each state has laws and regulations regarding the deployment of soldiers in a "State Active Duty" status. WMD Civil Support commanders are required to coordinate with their respective state's Plans, Operations, and Military Support Officer for information regarding the aspects of "State Active Duty." Once federalized, these teams may be deployed under DOD control in support of a LFA during a WMD terrorist incident.

#### **4. State and Local Government**

a. Each state has an **emergency management state office** that coordinates emergency preparedness planning, conducts emergency preparedness training and exercises, and serves as the coordinating agency for the Governor in an emergency. Generally, these state offices are either organized as an independent officer under the Governor or aligned under The Adjutant General (TAG) or the state police. As such, the senior official in charge of emergency services varies by state. In some states, the TAG is the senior official, while in other states the TAG is the director of their emergency management state office.

b. The local communities provide the **first responders**. These local responders are the primary source of help and hope for victims of a WMD incident. These first responders include fire, police, emergency medical services, and HAZMAT units. In most cases, it will most likely be the local fire chief, police chief, or some other local official who will be the OSC. Effective local response depends on the coordinated efforts of various departments and agencies, and may involve assets from surrounding communities. The local government has the responsibility to: Provide first response (911 dispatch of police, fire, Emergency Medical Services, or others); establish an incident command; warn and evacuate citizens; assess situation to identify operational requirements; determine if requirement's exceed local capabilities; and formally request mutual support and/or State assistance.

## Appendix C

### **12 Emergency Support Functions (ESF)**

1. **Transportation**,
  - a. Provide civilian and military transportation support.
  - b. Primary Agency: **Department of Transportation**.
2. **Communications**
  - a. Provide telecommunications support.
  - b. Primary Agency: **National Communications Systems**.
3. **Public Works & Engineering**
  - a. Restore essential public works, services, and facilities.
  - b. Primary Agency: **US Army Corps of Engineers in DoD**.
4. **Fire Fighting**
  - a. Detect and suppress wildland, rural, and urban fires.
  - b. Primary Agency: **US Forest services in the Department of Agriculture**.
5. **Information & Planning**
  - a. Collect, analyze and disseminate critical information to facilitate the overall federal response and recovery operations.
  - b. Primary Agency: **Federal Emergency Management Agency (FEMA)**.
6. **Mass Care**
  - a. Manage and coordinate food shelter and first aid for victims; provide bulk distribution of relief supplies; and operate a system to assist family reunification.
  - b. Primary Agency: **American Red Cross**
7. **Resource Support**
  - a. Provide equipment, materials, supplies, and personnel to federal entities during response operations.
  - b. Primary Agency: **General Services Administration (GSA)**.
8. **Health and Medical Services**
  - a. Provide assistance for public health and Human Services.
  - b. Primary Agency: **US Public Health Service, the Department of Health and Human Services**.
9. **Urban Search and Rescue**
  - a. Locate, extricate, and provide initial medical treatment to victims trapped in collapsed structures.
  - b. Primary Agency: **FEMA**
10. **Hazardous Materials**
  - a. Support federal response to actual or potential releases of oil and hazardous materials.
  - b. Primary Agency: **Environmental Protection Agency**.
11. **Food**
  - a. Identify needs; ensure that food gets to areas affected by disaster.
  - b. Primary Agency: **Department of Agriculture Food & Nutrition Service**.
12. **Energy**
  - a. Restore power systems and fuel supplies.
  - b. Primary Agency: **The Department of Energy**

## Appendix D

### **Mr. Fred C. Ikle, 'Legal Authority for a Leading DOD Role'**

Under the Constitution, the president as commander in chief has authority to use the armed forces to resist attacks against the United States, subject to restrictions imposed by law. The boundaries of such authority are ambiguous in situations where defense, law enforcement, and protection of civil liberties overlap. These contingencies straddle the divides among national security, law enforcement, and emergency management and, as such, bring into play a host of legal authorities that variously permit and prohibit different kinds of conduct by the military under different circumstances. Four in most instances, government planning to date has cast the military in a supporting role vis-à-vis civil and law enforcement authorities. Whether this view of the military's role and the legal authorities that govern its actions are appropriate or adequate given the existing threat should be questioned for several reasons.

First, some military planners, at various levels, frequently refer to firm limitations imposed by law—such as the Posse Comitatus Act—that inhibit military activities related to homeland defense. Other commentators stress a range of uncertainties about the scope of current laws. They have argued that authorities governing the military's role in domestic operations are a complex mix of outdated laws that do not provide the flexibility necessary for an effective military response against today's threat. One commentator noted: These [Posse Comitatus Act] constraints may have been appropriate in the late 1800s, but in a world where non-state groups have access to weapons of mass destruction...they could prove to be counterproductive....

...Outdated and inflexible American legislation has produced a patchwork consisting of constitutional and statutory exceptions so that the realities of domestic operations can be performed. Examples include the [Robert T. Stafford Act Disaster and Emergency Assistance Act] contingency planning for U.S. Army assistance in incidents involving use of chemical and biological weapons of mass destruction on U.S. soil, and various methods to facilitate cooperation between the FBI and the U.S. Army in anti-terrorism. The potential consequences of this approach include a convoluted chain of command and control structure, increased response time, and continuity-of-operations problems; it also leaves the federal response vulnerable to exploitation by an adversary.

To the extent that such limitations do impede adequate preparations for or responses to a WMD attack, it should be recognized that they are legal bars that could be corrected by additional legislation, if necessary. Second, some of the confusion regarding the governing legal authorities reflects the multitude of situations in which a military role may be required. The military's role in homeland defense is regulated by an overlapping mix of constitutional, statutory, judicial, regulatory, and other executive-branch authority. For example, different laws may apply depending on whether (a) there is an incident involving a nuclear, biological, or chemical weapon, (b) efforts are undertaken to apprehend the perpetrators or contain the consequences, (c) an emergency has been declared by a governor or the president, (d) an act of war has been committed against the United States, (e) martial law has been declared, or (e) Congress has declared war.

Similarly, different laws may apply depending on whether the military is fulfilling its traditional functions or is acting in assistance to law enforcement officials. Third, often the laws that govern emergencies, such as the National Emergencies Act, do not themselves authorize conduct by the military. Instead, such laws establish a set of conditions under which DOD may exercise authorities granted under a myriad of other, more specific laws. These other laws were themselves created for other purposes and may not contain the precise authorities needed for the kinds of actions required in response to an attack with weapons of mass destruction. Although the major authorities are limited in number, it may be said without exaggeration that the number of supporting laws, regulations, directives, precedents, and constitutional provisions involved in determining whether the military may undertake the likely range of actions needed to respond to enemy strategies for WMD attack might, when taken together, run well into the scores or even hundreds.

Fourth, recent laws passed to focus on WMD were designed primarily to increase DOD assistance to local and law enforcement efforts to respond to a limited terrorist attack. To the extent that legislators have focused on homeland defense, they have seen the problem primarily in such terms. These laws, therefore, need to be examined in light of the broad-based attack that is a growing defense concern. Moreover, the terms of laws governing nuclear, chemical, and biological threats differ in ways that may make a response to some more difficult than others.

Finally, a number of the laws or authorities that might be relied on for homeland defense either have not been tested under the circumstances involved here or have been tested in court only under limited circumstances,

and usually decades ago. This is not surprising given that there has been only limited need for homeland defense in the past century or more. The potential threat to the U.S. homeland makes it important adequately to address the above concerns. Inadequate or insufficiently understood legal authorities for a military role in homeland defense against a broad-based WMD challenge pose significant national security risks. They may, for example, delay, complicate, or even prevent defensive measures within or in the immediate vicinity of the 50 states and the District of Columbia, measures that would save lives or reduce damage before, during, or after an attack.

The president and the military may act only where they have been granted authority by the Constitution or Congress. Military officers or agency officials might be reluctant to take action with inadequate or unclear legal authority. Local officials at the state, county, or municipal level who are reluctant in a crisis to relinquish local assets for regional or national purposes may exploit unclear authorities to delay action.

Emergency legal challenges could be launched by local or private parties. Such delays, multiplied and cascading through the system, could impair or defeat effective defenses. The absence of clear legal authority, if not addressed well before a crisis, also may become known through public debate during a crisis. This can have several adverse effects. First, it could tempt an aggressor whereas clear lines of authority and the appearance of effective responses might help to deter one. Second, it could increase domestic concerns, possibly contributing to a panic on the eve of an expected attack or in the wake of an actual one. Third, public doubts about the effectiveness of our defenses will likely lead to increased public or congressional resistance to conducting a forceful foreign policy that might provoke a potential aggressor.

Moreover and perhaps most important, inadequate or insufficiently understood legal authorities might obfuscate responsibilities held by executive branch agencies and affect their allocations of resources and long-term R&D. Many observers believe that only DOD has the skills and resources to organize the necessary research, development, and procurement efforts and to handle a coordinated response to an attack that involves WMD. These observers note that homeland defense related to a war or a warlike situation is properly a DOD concern. However, **it is also believed that DOD, through misgivings about its lawful role or for reasons related to its own priorities, has not satisfactorily addressed its role in responding to or inhibiting (other than through the threat of a retaliatory strike) a massive attack.** If so, a clearer understanding in DOD and the body politic of legal requirements for homeland defense may help bring to bear the necessary resources for undertaking research, acquiring capabilities, and training and planning for successful defensive operations. The risks described above could be alleviated if legal authorities are better understood or if necessary changes to the law are identified and enacted.

The past two years we have seen rapid growth in the number of studies and reports done by or for the U.S. government that examine the threat posed by isolated attacks with nuclear, chemical, or biological weapons within the United States. Congress, the Department of Defense, and other executive agencies such as the FBI and FEMA moved to examine what would need to be done against this threat.

## APPENDIX E

### Threat Assessments

The threat assessments have been issued primarily by DOD, Department of Energy, intelligence agencies, and by the research arms of Congress. As stated above, their concern is the issues involved in WMD proliferation, keeping the technology and knowledge out of the wrong hands before a threat can develop. The Defense Science Board's report of the task force on transnational threats (*DoD Responses to Transnational Threats* [Washington, D.C.: Office of the Under Secretary of Defense for Acquisition & Technology, October 1997]) has an excellent threat section on pages 13–22. This report is also clear on the indeterminacy of the threat's likelihood. Referring to a nuclear device that "could be detonated in a city, or a military base in the United States...", the report concludes—correctly—that "there is no way to assign a likelihood or probability to such an event" (p. 42). *Transforming Defense: National Security in the 21st Century* (Arlington, Va.: National Defense Panel, December 1997), the report of the congressionally mandated National Defense Panel, contains three pages on the new threat to the U.S. homeland. The danger of clandestine delivery is addressed by Richard A. Falkenrath, Robert D. Newman, and Bradley A. Thayer in *America's Achilles' Heel*, published by MIT Press in 1998.

The Department of Defense has produced many of these studies. *Chem-Bio 2010: Assessment of the Impact of Chem/Bio Weapons on Joint Operations in 2010*, written in 1997, is one such report that looks at WMD and the technical effects of their use on operations. DOD also produces an annual report, *Proliferation: Threat and Response*, that catalogs the proliferation attempts of various nations around the world and active or planned DOD programs to counter or limit them. The Defense Intelligence Agency (DIA) and the Central Intelligence Agency (CIA) also examine proliferation threats. The Quadrennial Defense Review Panel and the National Defense Panel also looked briefly at threats from WMD proliferation.

The Senate Committee on Governmental Affairs produced *The Proliferation Primer* in January of 1998. This document, based on a series of hearings held by the Subcommittee on International Security, Proliferation and Federal Services, is meant as an informational document on the subject of proliferation. Topics covered in the report include the proliferation status of various threat nations and their actions regarding the proliferation of WMD and ballistic missile technology to other parties, intelligence documents relating to technology sale and transfer, and U.S. laws and statutes regarding counter-proliferation.

The new Center for Counter-proliferation Research at the National Defense University (NDU) has produced a number of studies examining the threat that WMD pose to military operations and to the homeland. Some of which are as follows:

1. *The NBC Threat in 2025: Concepts and Strategies for Adversarial Use of Nuclear, Biological, and Chemical Weapons* (Washington, D.C.: NDU, 1997) a
2. *The Effects of Chemical and Biological Weapons on Operations: What We Know and Don't Know* (Washington, D.C.: NDU, 1997) are two threat reports that try to establish how WMD might be used in conflict with a nation or non-state actor.
3. Seth Carus wrote *Bioterrorism and Biocrimes: The Illicit Use of Biological Agents in the 20th Century* (Washington, D.C.: NDU, forthcoming) that catalogs all the uses and threatened uses of bioweapons (excluding open warfare) in the past century.
4. The CSIS project on global organized crime, headed by William Webster and Arnaud de Borchgrave, has produced a number of reports, including *The Nuclear Black Market* (Washington, D.C.: CSIS, 1996).
5. The above report led to a number of risk-reduction initiatives and a war game called *Wild Atom* (Washington, D.C.: CSIS, 1998). This war-game involved an attempt to smuggle a nuclear device into the United States.

### Operational Reports

Most of the reports that deal with biological or chemical attacks against the homeland deal with investigations and consequence management operations. Written primarily by DOD organizations, FEMA, and the FBI, the majority of these reports can be said to be tactical manuals. They deal with the basic operations of investigation and consequence management: Who has jurisdiction? What equipment is necessary for a decontamination unit that responds to a WMD incident? What training should be given to first responders? Which DOD office has primary liaison responsibility with the civil authorities?



1. The DOD report to Congress, *Domestic Preparedness Program in the Defense Against Weapons of Mass Destruction*, released in May 1997, is the basic report on DOD support to civil authorities in the event of a WMD incident. The report covers current DOD programs and responsibilities relating to attacks and lists information, equipment, and personnel that would be released to the civil authorities in the event of an incident. The report also covers those programs—in operation or planned—in which DOD nuclear, chemical, and biological warfare specialists train civil first responders such as fire, police, and medical service personnel in operations such as WMD triage, decontamination, and contamination reconnaissance. The document also briefly covers the legal aspects of DOD involvement in an otherwise nonmilitary operation.

2. In January 1998, DOD released a report covering reserve and National Guard involvement in WMD incident response: *Integrating National Guard and Reserve Component Support for Response to Attacks Using Weapons of Mass Destruction*, an overview of the assets the reserves and guard have available to aid in a WMD incident. Although the report looks at legal and organizational issues in appendixes, most of it addresses how the guard and reserves can be organized to back up the first responders during a WMD incident. The guard and reserves could have both permanent and reserve units to perform such functions as detection and assessment; nuclear, biological, and chemical (NBC) reconnaissance; decontamination; medical triage and treatment; stress management; security; mortuary affairs; transportation; communications; and engineering. The National Guard could also take the lead in liaison between DOD and the local civil authorities.

3. There are many other reports regarding operational concerns.

a. *An Assessment of Federal Consequence Management Capabilities for Response to Nuclear, Biological, Chemical (NBC) Terrorism* was reported to the president by the Catastrophic Disaster Response Group in February 1997.

b. Congress and FEMA reported on *The Role of the National Guard in Emergency Preparedness and Response for the United States* in January 1997.

c. Other reports of similar contents include

- (1) *NBC Terrorism Response Focus Group for Local Government* (October 1996),
- (2) *National Governor's Association Workshop with Interagency Partners* (September 1996),
- (3) The FEMA City Representatives meeting series (1996),
- (4) *FEMA/FBI Report to Congress* (January 1997),
- (5) The DOD Focus Group meeting series (February 1997),
- (6) *The DOD/DOE Report to Congress* (April 1996).

4. In the area of defensive R&D:

a. In early 1999, the Institute of Medicine at the National Academy of Sciences publishes *Chemical and Biological Terrorism*:

b. *Research and Development to Improve Civilian Medical Response*. Was produced by a committee of public health officials, physicians, biologists, emergency management experts, and government representatives, the report examines the R&D needed to develop techniques and equipment required by the medical community before, during, and after a WMD incident. It is the very type of R&D advocated by this report that the suggested research center for biotechnology and chemical defense would be in charge of financing and coordinating.

c. A similar study was done earlier by Polly Harrison and Joshua Lederberg for the Institute of Medicine at the National Academy of Sciences. *Orphans and Incentives: Developing Technologies to Address Emerging Infections* (Washington, D.C.: National Academy Press, 1997) looks at taking on emerging natural diseases but also has a lot to offer about the formation of a biological and chemical defense center.

5. A number of non-governmental and academic organizations have also produced books and studies relating to defense and consequence management in homeland defense.

a. Chief among these has been the Universities Study Group on Catastrophic Terrorism, run out of Harvard University's Kennedy School of Government. The group made up of prominent academics and former government officials, looked at how the US should prepare for major terrorist attacks, including the use of WMD.

b. The above group's findings resulted in report form by Stanford University and can be found in "Catastrophic Terrorism" by Ashton Carter, John Deutch, and Philip Zelikow in the November/December 1998 issue of *Foreign Affairs* and also in *Preventive Defense: An American Security Strategy for the 21st Century* (Palo Alto, Calif.: Stanford University, forthcoming).

c. More recent academic books on the topic include

(1) *America's Achilles' Heel: Nuclear, Biological, and Chemical Terrorism and Covert Attack* by Richard Falkenrath et al. (Cambridge, Mass.: MIT Press, 1998).

(2) Leonard Cole's *The Eleventh Plague: The Politics of Biological and Chemical Warfare* (New York: W. H. Freeman, 1997).

## **APPENDIX F**

**Booz Allen & Hamilton "HLS Champaign Response to the Road Map for National Security: Imperative for Change".** A Summary of the Third Phase of the U.S. Commission on National Security/21st Century (i.e. Hart – Rudman Report) provided the following:

### **Recommendations on which Congressional action is required for implementation.**

- The President should propose, and Congress should agree, to create a National Homeland Security Agency (NHSA) with responsibility for planning, coordinating, and integrating various U.S. government activities involved in homeland security. They should use the Federal Emergency Management Agency (FEMA) as an essential building block in this effort.
- The President should propose to Congress the transfer of the Customs Service, the Border Patrol, and Coast Guard to the National Homeland Security Agency, while preserving them as distinct entities.
- The President should propose to Congress the establishment of an Assistant Secretary of Defense for Homeland Security within the Office of the Secretary of Defense, reporting directly to the Secretary.
- The President should propose to the Congress a plan to reorganize the State Department, creating five Under Secretaries, with responsibility for overseeing the regions of Africa, Asia, Europe, Inter-America, and Near East/South Asia, and redefining the responsibilities of the Under Secretary for Global Affairs. These new Under Secretaries would operate in conjunction with the existing Under Secretary for Management.
- The President should propose to the Congress that the U.S. Agency for International Development be consolidated into the State Department.
- The Secretary of Defense should propose to Congress a restructuring plan for the Office of the Under Secretary of Defense for Policy, which would abolish the office of the Assistant Secretary for Special Operations and Low-Intensity Conflict (SOLIC), and create a new office of an Assistant Secretary dedicated to Strategy and Planning (S/P).

### **Actions requiring implementation by Executive Order.**

- The President should develop a comprehensive strategy to heighten America's ability to prevent and protect against all forms of attacks on the homeland, and to respond to such attacks if prevention and protection fail.
- The President should ensure that the National Intelligence Council includes homeland security and asymmetric threats as an area of analysis; assign that portfolio to a National Intelligence Officer; and produce National Intelligence Estimates on these threats.
- The Secretary of Defense, at the President's direction, should make homeland security a primary mission of the National Guard, and the Guard should be reorganized, properly trained, and adequately equipped to undertake that mission.
- The President should personally guide a top-down strategic planning process and delegate authority to the National Security Advisor to coordinate that process.
- The National Security Council (NSC) should be responsible for advising the President and for coordinating the multiplicity of national security activities, broadly defined to include economic and domestic law enforcement activities as well as the traditional national security agenda. The NSC Advisor and staff should resist the temptation to assume a central policymaking and operational role.

### **Work needed by the head of an Executive Branch, department or agency, or by the congressional leadership, as appropriate.**

- Congress should establish a special body to deal with homeland security issues, as has been done with intelligence oversight. Members should be chosen for their expertise in foreign policy, defense, intelligence, law enforcement, and appropriations. This body should also include members of all relevant congressional committees as well as ex-officio members from the leadership of both Houses of Congress.
- Based on a review of the core roles and responsibilities of the staffs of the Office of the Secretary of Defense, the Joint Staff, the military services, and the CINCs, the Secretary of Defense should reorganize and reduce those staffs by ten to fifteen percent.
- The Secretary of Defense should direct the DoD to shift from the threat-based 2MTW force sizing process to one which measures requirements against recent operational security objectives as defined in the new administration's national security strategy—once formulated.
- The Defense Department should devote its highest priority to improving and furthering expeditionary capabilities.



## APPENDIX G

**In 1999 during his resident, LTC Spiese, Melvin, a Marine Corps Colonel, assigned to War College surmised and recommended the following:**

WMD attack is a valid threat; CQM (consequence management) is a valid mission tasking. DoD's current CQM capabilities are limited and provided on the margins of the Armed Forces. The WMD threat is complex and the consequences of an incident are potentially staggering, requiring a more comprehensive and dedicated commitment of resources. The National Guard, despite DoD pronouncements, does not now have the ability to assume this mission in the manner required. Beyond the MSD elements, the skills and capabilities most needed in a WMD attack are simply not in the structure in sufficient quantity, and those available are not organized in a manner that will ensure adequate national coverage. Utility is based on capability; it is capability that will matter in WMD homeland defense. At present, the National Guard is only marginally useful for WMD homeland defense.

The National Guard, however, is the right choice for WMD homeland defense. Its community base, infrastructure, and natural affiliation with state and local agencies and authorities offers an unmatched foundation for CQM. Conversion of two National Guard combat divisions to homeland defense divisions can be done without adverse impact on the Guard's wartime requirements. The key to the HLD division is the Guard's familiarity and habitual association with civil agencies and resident infrastructure. They can ensure mutual support and full integration of Guard resources with state and local civil authorities, and between each STARC and the FEMA headquarters in the region. The division can also provide extensive and detailed planning and preparation, and a rapid, comprehensive response to a WMD attack. National Guard divisions organized to provide comprehensive WMD homeland defense offer increased utility across the spectrum of domestic needs and additional critical capabilities for major theater war.

DoD should specifically task the National Guard with the WMD homeland defense mission. This should include both preparedness of first responders and civil authorities, and response to WMD attack. The Army National Guard should reorganize the two combat divisions not apportioned for standing war plans into two Homeland Defense Divisions. Divisions should be organized regionally to coincide with, and replace, the present 1<sup>st</sup> and 5<sup>th</sup> Army response task forces. HLD division organization should be done in concert with other National Guard units to ensure a distributed capability force structure throughout the 54 states and territories. A regional Emergency Management Assistance Compact should be established, limited to the HLD divisions, to facilitate division support to associated states during emergencies without the necessity of federal involvement. Federal funding provisions should be established to ensure all WMD responses are federally funded upon activation of the division.

**LTC Peter M. Aylward, a 1999 National War College Student, wrote the following in his course thesis "WEAPONS OF MASS DESTRUCTION: UNTIMELY RESPONSE OR MONEY WELL SPENT?"**

Vying for the limited discretionary funding made available by Congress; federal players provide parochial views on solving the problem while serving their state and local special interests. These solutions generally underscore the benefits of using their organization's unique capabilities. The FBI, FEMA and DoD have all been guilty of bureaucratic politics that exploits existing programs, policies and capabilities with an eye on the funding available from Congress.

To that end, each organization leverages the unique aspects of their state and local counterparts. First, the FBI underscores its role as the federal crisis manager. The FBI provides solutions that highlight the unique FBI and local law enforcement relationships. Second, given the lead on Consequence Management, FEMA (who runs the firefighter academy) provides solutions and training that highlight the unique FEMA and fire fighters' relationships. Third, DoD targeted the constitutionally unique state and federal dual-status role of the National Guard to fill the gap between the local/state response and the follow-on federal response. This also provides a partial solution to Quadrennial Defense Review cuts to the National Guard by providing relevance to force structure that was deemed irrelevant.

Engaged in bureaucratic politics the interagency partners will continue to press their own self-interests. Congressionally scrutiny in the aftermath of Government Accounting Office audits will force compromise and help control government waste. Prudent decisions based on a comprehensive analysis of the interagency partners will ensure our good fiscal stewardship. Also, it will avoid fragmented, duplicative efforts and avoid unnecessary mission creep into the domestic arena.

In summary, our government can ill-afford to respond half way around the world to places like Somalia and Rwanda and neglect its own people. Protecting the territory of the United States from all enemies foreign and domestic is the principle task of government.<sup>1</sup> When terror strikes home, Americans expect a prompt and efficient response. Understanding how our government responds allows us to construct practical solutions to meeting the challenges of WMD domestic emergencies.

Effecting a timely and efficient WMD response is not an easy task. Jurisdictional division of responsibility between local, state and federal government's makes this even more cumbersome. The complex nature of American bureaucracy and the interagency institutions that serve them further exacerbates the problem. On one hand, local and state authorities seek to remain autonomous but recognize the need for federal involvement. On the other hand, legal restrictions force the federal partners to abide by a strict set of statutory and regulatory guidelines in order to respond. The two must be carefully coordinated.

Failure to respond in a competent, efficient and effective manner will undoubtedly have serious political consequences. Public opinion and special interests play an important and ever increasing role in crafting domestic policy. The vote is a significant reality check for those that neglect the home front.

Still maturing, the interagency WMD effort has made slow but notable headway while tackling some tough issues. This is an ongoing, evolving process. In the final analysis, the WMD strategy is an economy of force effort that attempts to provide good fiscal stewardship in an era of limited discretionary funding. Only time will tell if those funds were wisely spent.

## REFERENCES:

- a. PDD-39, United States Policy on Counter- terrorism, 21 June 1995 (S)
- b. Defense Against Weapons of Mass Destruction Act of 1996 (U)
- c. Federal Emergency Management Agency: Federal Response Plan Terrorist Incident Annex, April 1999
- d. Federal Emergency Management Agency: Federal Radiological Emergency Response Plan, April 1996
- e. National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 20 December 1993 21
- f. DoDD 3025.1, Military Support to Civil Authorities (MSCA), 15 January 1993 (U)
- g. DoDD 3025.15, Military Assistance to Civil Authorities, 18 February 1997 (U)
- h. CJCS CONPLAN 0400-96 (S)
- i. CJCS CONPLAN 0300-97 (S)
- j. USA FORSCOM's Domestic Emergencies Handbook, dated 15 Mar 99.
- k. US Army War College's Military Support to Civil Authorities
- l. JTF-CS's Handbook For Joint Task Force Domestic Consequence Management Operations
- m. US DoD. Report. Report of National Defense Panel. *Transforming Defense: National Security in the 21<sup>st</sup> Century*. December 1997.
- n. **Disclaimer:** All else noted within document.